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TOWN OF EAST KINGSTON PLANNING BOARD

MEETING MINUTES

May 16, 2024

Pound School
41 Depot Road
East Kingston, New Hampshire

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

AGENDA

Housing Needs Assessment Report and Land Use Regulations Audit

James O'Neil/Sterling Homes LLC – 2 Deer Run – MBL# 06-01-04 – 3 Lot Subdivision (Case #2024-05)

Bear Land Holdings LLC – 131 North Road – 4 Lot Subdivision (Case #2024-06)

Board Members Present: Tim Allen – Vice Chair, Josh Bath – Chair, Catherine Belcher – Alternate, Ellie Cornoni, and Joseph Cacciatore – Ex-Officio.

Advisors Present: Jenn Rowden – RPC Planner, Mikayla Jerominek – RPC Planner in Training, Dennis Quintal – Town Engineer/Conservation Commission Chair, and Matt Gallant – Deputy Fire Chief.

Others Present: Beth Chapman, Vicki Brown, Keith Martel, James O'Neil – LLS, Chris Berry, Kevin Frye, Jim and Patricia Webber, Carmine Diveglia, Franz and Stephanie Ekendahl, Duane Elbrecht, Tony Wells, and other members of the public who did not participate in any discussions or identify themselves.

Chairman Bath opened the meeting at 6:31pm followed by the roll call. He announced that Janet Smith has resigned from the board. Recruitment efforts were noted – recruitment flyers posted at the post office, the town offices, three local Facebook pages, and emailed to all town officials and stakeholders. Deputy Chief Gallant offered to inquire about posting the vacancy on the Fire Department's electronic sign.

HOUSING NEEDS ASSESSMENT DRAFT REPORT AND LAND USE REGULATIONS AUDIT PRESENTATION

Housing Needs Assessment Draft Report - RPC Planner Rowden spoke to the recent survey sent out to town officials, volunteers, and employees noting they received 50 responses generating 141 comments. Though the results were from a small subset of individuals, the data collected was profound in that it provided important information on the impact of the quality of life in East Kingston.

RPC Planner Jerominek provided a breakdown of the stats for both new and veteran volunteers/officials/employees respondents, on homeownership and renters, and on the reasons why those who did not live in town, but wanted to, (taxes, cost of land, affordability). Respondents highlighted the rural character of the town, its open space, it not being overcrowded or overdeveloped as a basis for wanting to live here.

Planner Rowden stated the survey link will remain active for a period of five years as a resource/reference for future regulation/master plan development. The next step is to conduct a public presentation on the Housing Needs Assessment Report and the Land Use Audit in June. The documents do not need to be adopted but will serve as valuable resources moving forward. The Housing Needs Assessment Report can be translated into the Housing Chapter for the Master Plan with little effort – they will only need to write goals which could be completed over the summer.

Responding to Town Engineer Quintal's question about accessory dwelling units (ADUs, she stated a number of towns allow for more than one ADU and the state legislature is working to require towns allow for two ADUs per lot. Discussion ensued on the requirement that regardless of how many ADUs the state can mandate, all ADUs must have appropriate septic systems. Some properties would not be able to add ADUs due to the lack of ability to increase the septic on a parcel to accommodate them. Additionally, there is no restriction to the number of septic systems one can

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have on a parcel, so long as they meet appropriate design and setbacks. ADUs must also remain incidental to the main dwelling so as not to appear as two houses.

Responding the Vice Chair Allen question about how East Kingston compares to surrounding towns with respect to being expensive, Planner Rowden stated East Kingston is lower than the neighboring communities with regard to home sale prices; however, the town is well above the affordable level for the region, noting everything on the seacoast is expensive.

She stated there is still time for board members to provide their feedback on the document before the June presentation. Chairman Bath commended the work in drafting the report. Planner Rowden noted one more section will be added to the document which will be the public input from the June meeting.

Vice Chair Allen asked what other towns are doing about addressing affordable housing. Planner Rowden noted several of the towns with a rural character like East Kingston are doing very little. Brentwood has rescinded its efforts to have more diverse housing, and South Hampton is only complying with the ADU requirements.

Land Use Audit – Planner Rowden presented the Land Use Regulations Audit draft noting the highlighted texts require further verification. The document serves two main purposes: to provide an inventory of land use tool options and identify which specific land use tools are feasible (or not) for the unique character of the Town of East Kingston. The document will also serve as a reference tool. The tools listed come from the NH Housing Tool Box. Each tool will need to be evaluated to determine how much it could increase housing in town, what are the positive or negative or neutral impacts to the town, is the tool community supported, and is it feasible (infrastructure ready or is more study needed).

She reviewed the impact summary that listed a number of strategies (ADUs, adaptive reuse, age-friendly neighborhoods, cluster housing, form-based codes, infill development, inclusionary or workforce zoning, mixed use development, planned unit developments, reduced zoning and subdivision requirements, tax increment financing and transfer of development rights) and how each strategy rated with respect to housing impact, community character, community support, and feasibility.

She then reviewed the housing terms and definitions as well as the housing strategies definitions, local presence, potential benefits, potential constraints, opportunity cost, considerations for implementation, and what specifically can the town do in light of that particular strategy.

Planner Rowden concluded the presentation by reiterating the document is not something the board should adopt, but to use as a reference when considering strategies to increase housing opportunities in town.

Vice Chair Allen commented that the town's zoning ordinance is constructed in such a way as to make it difficult to develop and utilize these strategies. He suggested the board consider re-organizing it at some point.

Planner Rowden concurred and then asked board members to provide any feedback to her on the audit so she can finalize it for the public presentation at the June meeting.

PUBLIC HEARINGS

JAMES O'NEIL/STERLING HOMES LLC – 2 DEER RUN – MBL# 06-01-04 (Case# 2024-05)

Chairman Bath opened the public hearing at 7:00pm for James O'Neil and Sterling Homes LLC who propose to subdivide a 20.72-acre parcel, situated in the residential/agricultural district, and located at 2 Deer Run, MBL# 06-01-04, into three lots resulting in lots measuring 2.96, 5.83, and 11.9 acres respectively. The property is owned by Deschenes Living Trust c/o Dawn LeSage.

PRESENTATION BY THE APPLICANT

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Keith Martel of Sterling Homes presented an overview of the proposal noting that serious consideration of the existing neighborhood and its character was given when they were designing the type of subdivision plan for the parcel. Though the parcel could yield six individual lots, they are only proposing three with housing designs typical of the rural character of the neighborhood. The proposal consists of two larger lots with one smaller one utilizing the backlot provisions. Wanting to mimic the character of the neighborhood, the houses would be set back off the road with tree preservation as a priority. He does not typically build to suit as they generally built farmhouses measuring 3300 to 3500 square feet with three car garages. He stated he is in receipt of the Town Engineer's comments noting most are housekeeping; however, one of them does require they include driveway detail to ensure no water runoff into the roadway.

TOWN ENGINEER'S REVIEW

Town Engineer Quintal presented his written review of the proposal as follows:

At the request of the board, I have conducted an engineering review of the above-referenced Subdivision Plan. This review includes compliance with the requirements of the Town of East Kingston Subdivision Regulations and customary engineering practices. I have not conducted an on-site inspection of the property, so I based this review only of the following documents received 3-26-24 by email and again by email 4-23-24:

- 4 Sheets Subdivision Plan of Tax Map 6 Lot 1-4 in East Kingston, NH, owned by Deschenes Living Trust C/O Dawn Lesage, prepared for Sterling Homes, LLC by Hancock Associates dated 2-27-24
- Copy of Application, Deed, Abutter's List, Escrow Agreement and Test Pit Report.

I offer the following comments for the Board to consider:

1. A north arrow should be provided for the Vicinity Map.
2. State Subdivision Permit is required for any lot less than 5 Acres. Proposed Lot 1 is less than Acres. Note should be added to the Title Sheet, State Subdivision Pending and it should be obtained prior to Town Approval of the Subdivision.
3. Sheets 2,3 & 4 – The Tax Maps listed for the Abutter's in Exeter are the same.
4. Sheets 2 & 3 The dotted lines that I assume are for soils cross upland and wetland but should identify more closely the approximate limits of the soil type shown.
5. Sheet 3 – Article VII. F. - The approximate driveway locations are shown. I believe detail should be added to show grades and culverts if needed. Example, Lot 1 has very steep slope. Surface runoff should not be allowed to run onto the Town Road Pavement.
6. Sheet 3 & 4 - The 4K area for wastewater disposal on Lot 1 crosses over the property line.
1. Article VII D.6 requires a setback of at least 20 feet.
7. Sheet 4 – The Setback Requirements should be for East Kingston, not Kingston.
8. Section X.B.4 – Plan should say Bound to be set on all new lot corners. 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.
9. Section X.B.5 – The final plan must have each lot with new Tax Map number.
10. A mylar shall be provided to the Town to sign.
11. A Bound Certification must be provided by the Surveyor for the monuments set.

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115 He concluded noting most could be easily addressed.

116 FIRE DEPARTMENT REVIEW

117 Deputy Fire Chief Gallant stated he has reviewed the plan and visited the site and noted the cistern as noted on the
118 plan set lists that cistern as measuring 1000 feet from the parcel. The actual length to the parcel is 2200 feet which is
119 within the 2600-foot requirement. He then stated the existing cistern is over 20 years old with a capacity of only 10,000
120 gallons. Current cisterns must be at least 30,000 gallons. He stated he wanted the abutters who were present at the
121 meeting to be aware of this. Newer homes are built with a lot of synthetics which burn hotter and faster. He
122 recommended anyone in that neighborhood consider installing sprinkler systems in their homes. He reiterated this
123 was a recommendation only.

124 PLANNING BOARD REVIEW

125 Chairman Bath then review the application for determining if it was complete for the purposes of invoking jurisdiction
126 and starting the 65-day clock.

SUBMISSION REQUIREMENTS:

<u>✓</u>	Completed application	<u>✓</u>	Set escrow amount if over \$2500	<u>✓</u>	Fees paid
<u>✓</u>	Plat checklist completed	<u>✓</u>	Copy of property deed	<u>✓</u>	Plan sets provided

SECTION VII SUBDIVISION GENERAL REQUIREMENTS:

<u>✓</u>	A. No lot shall be narrower than 125 feet	<u>N/A</u>	K. Dangerous land character shall not be platted for use
<u>N/A</u>	B. Street arrangement – Reserve parcel	<u>N/A</u>	L. No develop of steep slopes <15%, no roadway <10%
<u>N/A</u>	C. Streets/ROWs not less than 50ft width	<u>N/A</u>	M. Common space to be deeded by covenant
<u>N/A</u>	D. Cul-de-sac not more than 1000 feet	<u>N/A</u>	N. No duplication of street name (no phonetic resemblance)
<u>N/A</u>	E. No more than 20 units on single street	<u>✓</u>	O. Septic system provisions
	F. Driveways: 10ft setback, no common, 2% slope	<u>✓</u>	P. Pavement and drainage facilities
<u>N/A</u>	G. Reserve strips of land not permitted		Q. Road bond provisions (to be approved by town counsel)
<u>N/A</u>	H. 50 ft ROW for future connections	<u>✓</u>	R. Proposed subdivision to conform to zoning ordinance
<u>N/A</u>	I. Intersections join curve at least 20-ft radius)		S. Fire plan notation for creation of less than 2 lots
<u>N/A</u>	J. Street grades not more than 5% or > ½ of 1%		T. Fire protection requirements

127 It was noted that two 4K areas were depicted on lot #1 – the one closest to the road would be removed.

128 Discussion then ensued on the fire protection requirements whereby some thought the provisions kicked in after the
129 creation of three new lots; however, the Subdivision Regulations Section S states, *a single lot of any size subdivided*
130 *into to lots constitutes (2) two new lots for the purposes of this regulation, regardless of the individual lot acreages*
131 *resulting there from.*

132 This being the case, the applicant would need to provide fire protection by way of cistern, fire pond, dry-hydrant, or
133 sprinkler system. Deputy Fire Chief Gallant noted there was no place to add a fire pond, but they could install a 30,000-
134 gallon cistern or install sprinkler systems in the houses.

SECTION IX SOILS AND WETLAND DATA REQUIREMENTS

<u>✓</u>	SSSS Mapping	<u>N/A</u>	Wetlands permits required
<u>N/A</u>	Drainage report	<u>N/A</u>	SECTION XI – SPECIAL FLOOD HAZARD AREA
<u>N/A</u>	Shoreline Protection Act/Floodplains Ordinance	<u>pending</u>	State subdivision approval (new lots at least 5 acres)

SECTION XIV GRANTING OF WAIVERS (Requested in writing)

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135 No waivers are being submitted. It was noted that Gove Environmental Services conducted a site visit and their
136 independent analysis was forwarded to the Town Engineer who confirmed the analysis meets the SSSS mapping
137 requirement. The property is not located in a flood area.

ARTICLE VII GENERAL PROVISIONS

Septic system leach field boundaries shall be located more than 20 feet from any property boundary, 75 feet from any surface
water, 75 feet from existing or proposed private wells, and 125 feet from existing or proposed community wells. Minimum
√ 1250-gallon septic tank, minimum 3-bedroom-sized leach field (see Article VII.D)

ARTICLE IX LOT AREA AND YARD REQUIREMENTS

√ 200 contiguous feet of frontage (240 for backlots)	√ Back lot (5 acres/240 ft frontage)
√ 2-acre minimum lot size (87,120 square feet)	√ Building setbacks (30ft front, 25 side & rear)

138 It was noted that there is no grading for the houses at this time; however, the board wants to see controls in place for
139 the construction of the driveways. The parcel is not located within 1,000 feet of a gas pipeline.

140 **MOTION: Chairman Bath motioned to invoke jurisdiction on the 3-lot subdivision proposal of James O'Neil/Sterling**
141 **Homes LLC – 2 Deer Run – MBL# 06-01-04; seconded by Vice Chair Allen. The motion passed 4-0-0.**

142 Noting the board was down a member, Chairman Bath then designated Alternate member Cathy Belcher as a full voting
143 member for the evening.

144 Further review of the proposal resulted in the following determinations:

- 145 1. The proposal will need a fire suppression system (cistern or sprinkler systems) which will need to be noted on
146 the plan.
- 147 2. The second 4K area on lot #1 will need to be removed from the plan.
- 148 3. The primary parcel has been in existence prior to the 1997 backlot provision requirement; thus, the proposal
149 qualifies for a backlot.
- 150 4. Driveway detail/profiles will be needed for each of the driveways to ensure no stormwater runoff into the
151 roadway. It was also noted that any driveway over 150 feet long be at least 20 feet wide per NFDA
152 requirements.
- 153 5. A road bond will need to be secured with the town to ensure any damage to Deer Run during the clearing and
154 construction of homes will be addressed. Planner Rowden noted that an alternative to the road bond would
155 be for the applicant to pay an initial fee to cover any damage done to the roadway.

156 ABUTTER QUESTIONS/COMMENTS

157 Chairman Bath opened the meeting to questions and comments from abutters. The comments/questions included the
158 following:

- 159 • Tony Wells of 13 Forest Drive spoke to the applicant's portrayal of character of the neighborhood as subjective
160 as the distance from the proposed houses to the roadway was not conducive to the existing neighborhood.
161 The location of the home on lot #1 will adversely affect his property which is located along the side of that
162 parcel. Mr. Martel stated the reason the homes will be placed so far back on the property was to preserve a
163 knoll on that parcel and due to the location of the wetlands. He further stated that he does not clear-cut the
164 trees on his properties but only removes the ones that are necessary for passage and for the safe placement
165 of homes/buildings on the lots.

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- Kevin Frye of 12 Forest Drive spoke to the impacts of the roadways (Forest Drive, Deer Run, and Pheasant Run) as these roadways are already showing wear and the large equipment that will be used to clear and construct the homes will further damage it. He suggested the board require the sales and purchase agreements for the lots to include provisions that prohibit the filling in of the wetlands and to further agree to an annual inspection to ensure compliance. He stated he looked at purchasing the land five years ago and stated the town should have made a bigger effort to preserve the land. He has been a resident for 35 years and has concerns about the loss of peace and quiet during the development of the parcels.
- Duane Elbrecht of 7 Deer Run inquired how the land would be monitored to ensure the wetlands are not backfilled therefore impacting the environment. He proposes baseline and periodic measurements be taken. Town Engineer (and Conservation Commission Chair) Quintal informed the abutters that the town does not have the right to go onto people's private property. Any complaints or concerns about the filling or disturbance of wetlands should be submitted in writing to the NH Wetland's Bureau – the town has no control over this. Mr. Frye asserted the monitoring of the property could be written into the purchase and sales of the properties. Licensed Land Surveyor O'Neil reiterated Town Engineer Quintal's advice to contact the state with a formal complaint. The state will investigate, impose fines, and require restoration if they deem it necessary. The town has no authority to impose terms of a purchase and sales agreement. It is not the purview of the board to monitor the wetlands. Vice Chair Allen stated the wetlands are highly protected by the state. They are flagged and delineated and inspected post-construction which is no different than other parcels in town. It is basically the honor system. If it seems a violation has occurred, then a complaint is filed.
- Patricia Webber of 1 Deer Run expressed concern about the number of trees that will be removed and the loss of both privacy and noise protection. Mr. Martel reiterated his plan to minimize the number of trees to be cut keeping to clear only contours of the driveway for safe passage of equipment, and to circle the house; however, he could not commit to a specific measurement around the house. He stated he has no interest in removing the trees along Deer Run.
- Frans Ekendahl owner of conservation easement-protected land at 9 Deer Run spoke of his intent to preserve his 25 acres noting he gets notifications from the state to ensure he is in compliance with the easement agreement. He has concerns about water from the proposed developments draining onto his property and making his land a fishbowl. He does not want there to be any impact to his land.

Chairman Bath closed the hearing to public comment.

BOARD REVIEW

Town Engineer Quintal noted the NFDA requires that driveways more than 150 feet long be at least 20 feet wide to accommodate fire apparatus. This will need to be added to the driveway profile.

Vice Chair Allen inquired if the applicant would be willing to agree to not remove any trees within the 25-30-foot setback. Mr. Martel referenced the last storm and the tree damage that occurred, noting he could not set up a new owner of one of his properties with this type of scenario – he cannot commit to leaving trees within a certain measurement. Vice Chair Allen suggested he replace the removal of pine trees along the boundary with decent-sized fast-growing evergreens. Mr. Martel stated he could agree to that. Planner Rowden further added that the trees be sustainable through two growing seasons, or he could compensate Mr. Wells for the planting of trees on his own property.

Chairman Bath instructed the applicant to come back next month with the updates to the plan and to allow further time to digest suggestions – they can talk more at the next meeting.

Jim Webber of 1 Deer Run requested the board conduct a site visit before making a final decision.

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208 Vice Chair Allen responded that the board is charged with ensuring a development meets the regulations regardless of
209 whether they like the development or not. They do not have the authority to demand or require items not under their
210 purview or not supported in the ordinance or regulations. Mr. Webber replied that he understands the board's role
211 and appreciates their work. He stated the abutters will still be there long after the developer is gone.

212 Discussion ensued on the next meeting's venue and start time given the housing presentation and the addition of
213 another application to the agenda. It was agreed the June 20th meeting would begin at 6:30 with a one-hour housing
214 presentation followed by public hearings.

215 **MOTION: Chairman Bath motioned to continue the public hearing for James O'Neil/Sterling Homes LLC, Case # 2024-**
216 **05 to June 20, 2024 at 7:30pm at the Pound School; seconded by Mr. Cacciatore. The motion passed 5-0-0.**

217 Chairman Bath noted the applicant will need to address all of the Town Engineer's comments in his review letter as
218 well as:

- 219 • Determine which fire suppression system they will utilize (cistern/fire pond/sprinkler system) and update the
220 plans accordingly.
- 221 • Remove the 4K area closest to the roadway on Lot 1.
- 222 • When providing driveway detail (Town Engineer note #5), be sure that any driveway over 150 feet long is at
223 least 20 feet wide per NFDA requirements.
- 224 • Secure a road bond with the town to ensure any damage to Deer Run during the clearing and construction of
225 homes will be addressed. The Land Board Secretary will provide instructions on this.
- 226 • Consider planting trees that would minimize the visual impact of abutting property owner Wells or compensate
227 him so he could plant his own trees or provide other options for board consideration.
- 228 • The board welcomes any other options the applicant might have that would minimize the removal of trees
229 from the property as was an expressed concern of the abutters.

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

231 **BEAR LAND HOLDINGS LLC – 131 NORTH ROAD – MBL# 16-02-02 (Case# 2024-06)**

232 Chairman Bath opened the public hearing at 8:12pm for Bear Land Holdings, LLC who proposes to subdivide a 40.12-
233 acre parcel, situated in the residential/agricultural district, and located at 131 North Road (a state road), MBL# 16-02-
234 02, into four lots resulting in three of the lots measuring 2.02, 2.06, and 2.14 acres respectively with the remaining
235 backlot measuring 33.90 acres. Two natural gas pipelines and a telephone easement encumber the property and the
236 rear property boundary abuts a railroad easement. The applicant is requesting waivers from Subdivision Regulations
237 Section VII (A) whereby lots may not be narrower than 125 feet and Section VII (F) to permit a shared driveway at the
238 neck of two of the proposed lots. The property is owned by the Lois V. Turco Revocable Trust, Daniel Turco, Trustee.

239 **PRESENTATION BY THE APPLICANT**

240 Christopher Berry of Berry Surveying and Engineering provided an overview of the proposal to subdivide the property
241 into four lots noting his client (Bear Land Holdings, LLC) held a conceptual discussion with the board prior to submitting
242 the application. He spoke to the geographical layout of the property two frontages of the parcel, vast amounts of
243 wetlands, existing home, open areas, wooded at the rear of the property with portions of that area being historically
244 mined for clay. There are three utilities and one railroad easement. The property is located on a state road thus will
245 require NH DOT approval for driveway permits for which application has been made to District 6. There is no driveway
246 permit on file for the existing lot as it predates the state permit requirement.

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He went on to say that the configuration of lot lines is to create two new lots in the northern corner, a single lot around the existing home, and one large back lot. The existing sidelines are not perpendicular to the road, thus he tried to work the best way around that – from the perspective of the future landowners. There may be ways to design the lots without waivers, but he felt this layout was the best for the future landowners. He will provide the board with all of the 11 pages of the plan set as some were submitted to the DOT (driveway profiles) and some designed for sediment and erosion control. He stated he also had some questions about the town's soil matrix. The wetlands have been delineated and reviewed by a soil scientist, the test pits are uniform and are shown on the plan. Soils on the site are sandy with a higher water table.

TOWN ENGINEER'S REVIEW

Town Engineer Quintal presented his letter of review as follows:

At the request of the board, I have conducted an engineering review of the above-referenced Subdivision Plan. This review includes compliance with the requirements of the Town of East Kingston Subdivision Regulations and customary engineering practices. I have not conducted an on-site inspection of the property, so I based this review only on the following documents received 3-26-24 by email:

- 4 Sheets Subdivision Plan of Tax Map 16 Lot 2-2 in East Kingston, NH, owned by Lois V. Turco Revocable Trust C/O Dan Turco, Trustee, prepared by Berry Surveying & Engineering dated 3-26-24
- Copy of Application, Check List, Letter of Intent from Christopher Berry, Waiver Requests.

I offer the following comments for the Board to consider:

1. I have been provided with 4 sheets, but each sheet shows sheet number of 11. Are there more? – The applicant will provide the remaining sheets.
2. State Subdivision Permit is required for any lot less than 5 Acres. Proposed Lots 2,4 &5 are less than 5 Acres. Note should be added to the Title Sheet, State Subdivision Pending and the permit should be obtained prior to Town Approval of the Subdivision.
3. State DOT permits are required for each driveway shown and should be obtained prior to final approval from the Board. The Permit Numbers to be listed on the final Sheet for recording.
4. Section VII. F. - The approximate driveway locations are shown. Lots 3 & 5 must comply with NFPA Chapter 18 regarding access to dwellings for emergency access. Driveways to homes greater than 150 feet from the street are recommended to have 20 of stable ground and no more than 5% grade. An adequate turning radius at the dwelling site is required. The AHJ (Authority Having Jurisdiction) has significant leeway in accepting modified access specifications. Fire Department review is required. Perhaps additional grading could be provided to assist the FD review.
5. Section IX – This Section requires Steps to follow for subdivision with a written document to be provided by a Certified Soil Scientist. Additional information may be required or state why not.
6. Zoning Article IX.B allows for a back lot as shown for proposed Lot 2-3. It requires a minimum of 40-foot frontage and access back 200 feet. With required FD width and stormwater runoff I wonder if the 41.5-foot width provided will be adequate. A driveway grading plan with grading of swales along the edges of the driveway will clarify this.
7. I have no objection to the Waiver for the Shared Driveway and easement provided.
8. Regarding the Waiver for the minimum lot width, I am personally sad to see an old barn structure that has some historical significance to the Town be removed because of a setback requirement. I believe Lot 2-5 could meet the 125-foot width requirement. With a lot line around the barn, Lot 2-4 would be close to the requirement with a

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287 minimal waiver and be able to leave the barn in place on Lot 2-2. Just a thought, this barn structure could someday
288 become an ADU.

289 9. A mylar shall be provided to the Town to sign.

290 10. A Bound Certification must be provided by the Surveyor for the monuments set.

291 BOARD REVIEW

292 Chairman Bath inquired if the applicant would consider saving the existing barn and reconfiguring the lots in question.
293 Mr. Berry stated he would be happy to do this; however, it would mean creating odd, shaped lots – something he is
294 careful not to do as it can create issues with future landowners.

295 Chairman Bath then review the application for determining if it was complete for the purposes of invoking jurisdiction
296 and starting the 65-day clock.

SUBMISSION REQUIREMENTS:

<u>✓</u>	Completed application	<u>✓</u>	Set escrow amount if over \$2500	<u>✓</u>	Fees paid
<u>✓</u>	Plat checklist completed	<u>✓</u>	Copy of property deed	<u>✓</u>	Plan sets provided

SECTION VII SUBDIVISION GENERAL REQUIREMENTS:

<u>Waiver</u>	A. No lot shall be narrower than 125 feet	<u>✓</u>	K. Dangerous land character shall not be platted for use
<u>N/A</u>	B. Street arrangement – Reserve parcel	<u>✓</u>	L. No develop of steep slopes <15%, no roadway <10%
<u>N/A</u>	C. Streets/ROWs not less than 50ft width	<u>N/A</u>	M. Common space to be deeded by covenant
<u>N/A</u>	D. Cul-de-sac not more than 1000 feet	<u>N/A</u>	N. No duplication of street name (no phonetic resemblance)
<u>N/A</u>	E. No more than 20 units on single street	<u>✓</u>	O. Septic system provisions
<u>Waiver</u>	F. Driveways: 10ft setback, no common, 2% slope	<u>✓</u>	P. Pavement and drainage facilities
<u>N/A</u>	G. Reserve strips of land not permitted	<u>N/A</u>	Q. Road bond provisions (to be approved by town counsel)
<u>N/A</u>	H. 50 ft ROW for future connections	<u>✓</u>	R. Proposed subdivision to conform to zoning ordinance
<u>N/A</u>	I. Intersections join curve at least 20-ft radius)	<u>✓</u>	S. Fire plan notation for creation of less than 2 lots
<u>N/A</u>	J. Street grades not more than 5% or > ½ of 1%	<u>✓</u>	T. Fire protection requirements

297 It was noted that although the rear of the property was wet and had steep slopes, that portion of the parcel was not
298 identified for development. With respect to the clay pit, that portion of the property has been mined (sand layers
299 removed from top of the clay), the front of the property's sand cover is still intact, nor is the clay a blue marine unstable
300 clay.

ARTICLE VII GENERAL PROVISIONS

✓ Septic system leach field boundaries shall be located more than 20 feet from any property boundary, 75 feet from any surface water, 75 feet from existing or proposed private wells, and 125 feet from existing or proposed community wells. Minimum 1250-gallon septic tank, minimum 3-bedroom-sized leach field (see Article VII.D)

ARTICLE IX LOT AREA AND YARD REQUIREMENTS

<u>✓</u>	200 contiguous feet of frontage (240 for backlots)	<u>✓</u>	Back lot (5 acres/240 ft frontage)
<u>✓</u>	2-acre minimum lot size (87,120 square feet)	<u>✓</u>	Building setbacks (30ft front, 25 side & rear)

301 FIRE DEPARTMENT REVIEW

302 Deputy Fire Chief Gallant pointed out the two hydrants in close proximity to the parcel as noted on the plan (one
303 located on North Road by the Kensington town line and one on Autumn Lane). The stated there is a third dry hydrant
304 just north of Sanborn Road which is closer than the other two. Due to the number of cisterns in the area, it is his
305 position that the fire protection requirements are met for this application.

DRAFT – NOT YET APPROVED

306 BOARD REVIEW

307 With respect to Site Specific Soil (SSS) mapping, Town Engineer Quintal noted that based on the lot size, the soil types
308 (not complex soils), that the wetlands were delineated by a soil scientist, SSS mapping is not required for his application.

309 The property is located within 1,000 feet of a gas pipeline for which the requirement is that the utility companies be
310 notified of the proposal – certified mail was sent to all three utility companies as well as to the railroad company.

311 Discussion ensued on the shared driveway waiver request to which Mr. Berry informed the board that parcels in
312 existence prior to 1971 would only be granted three driveway cuts up to 700 feet. Without the waiver, the applicant
313 would be required to construct a short road to access all of the lots. There was also discussion on whether the plan
314 was complete for the purpose of invoking jurisdiction when two of the lot lines would likely be reconfigured to preserve
315 the existing barn. It was determined it was complete as the applicants were not required to submit an alternate plan.

316 **MOTION: Chairman Bath motioned to invoke jurisdiction on the 4-lot subdivision proposal of Bear Land Holdings LLC**
317 **– 131 North Road – MBL# 16-02-02; seconded by Vice Chair Allen. The motion passed 5-0-0.**

318 CONSIDERATION OF WAIVERS

319 Chairman Bath read through the provisions for granting waivers to which Mr. Berry presented a waiver request from
320 Section VII (F) as well as the rationale to permit a shared driveway at the neck of two proposed lots as follows:

- 321 • Explanation: The standards require the proposed driveway to access the lot on its own frontage. This project
322 is on an NHDOT highway and proposes to move the existing driveway north and share the neck portion of
323 the drive with Lot 2-2 and 2-4.
- 324 • Waiver Justification: a. Granting of the waiver will not be detrimental to the public safety, health or
325 welfare or injurious to other property and will promote the public interest because limiting access onto the
326 highway is in the best welfare of all.
- 327 • The waiver will not, in any manner, vary the provisions of the East Kingston Zoning Ordinance,
328 Master Plan or Official Maps because the requested waiver will not have an impact on any of the noted
329 documents above. The proposed lot meets all other requirements of the Town of East Kingston.
- 330 • Such waiver will substantially secure the objectives, standards and requirements of these regulations as
331 the shared portion of the driveway is limited and logical and therefore meets the remaining elements of the
332 regulations.
- 333 • A particular and identifiable hardship exists, or a specific circumstance warrants the granting of a waiver
334 because the NHDOT requirements restrict the number of drives on the parcel to 3. Without sharing in
335 particular locations, the property cannot be utilized to the logical potential provided and this creates a
336 hardship to the applicant.

337 **MOTION: Chairman Bath motioned to grant the waiver from Section VII (F) to permit a shared driveway at the neck**
338 **of proposed lots 2-2 and 2-4; seconded by Mrs. Belcher. The motion passed 5-0-0.**

339 Mr. Berry requested the board hold off on the other waiver until the new configuration is determined to preserve the
340 barn.

341 ABUTTERS QUESTIONS/COMMENTS

342 Chairman Bath opened the floor to abutter comments and questions. Mr. Carmine Diveglia of 28 Sanborn Road
343 inquired as to the locations of the homes which were pointed out on the plan for him. Mr. Diveglia stated he had no
344 objections to the proposal, thanked the board and left the meeting.

DRAFT – NOT YET APPROVED

345 Chairman Bath closed the hearing to public comment.

346 **MOTION: Chairman Bath motioned to continue the public hearing for Bear Land Holdings LLC, Case # 2024-06 to June**
347 **20, 2024 at 7:30pm at the Pound School; seconded by Mr. Cacciatore. The motion passed 5-0-0.**

348 SUMMARY

349 In addition to the Town Engineer's review items, the following is also required:

- 350 • The board favored reconfiguring some of the lot lines to preserve the existing barn – should the applicant agree
351 to this, updated plans will need to be provided.
- 352 • Add the third cistern located at Sanborn Road to the plan (Note #14 on sheet #1).
- 353 • The board granted a waiver for the common/shared driveway to lots 2-2 and 2-4. This waiver should be noted
354 on the plan.

355 Chairman Bath closed the public hearing at 8:52pm.

356 **OTHER BOARD BUSINESS**

357 **PLANNING BOARD CASE# 2024-04**

358 Board members were in receipt of the April 22, 2024 Selectmen meeting minutes documenting the Selectboard's action
359 to remand PB Case #2024-04 (Beth Chapman – Home Occupation proposal for a dog daycare and training center at 98
360 Depot Road) back to the Planning Board for a second review and to further conduct a site visit of the property as part
361 of that review. This was in response to the Planning Board's recommendation that the Selectboard not grant the
362 applicant a home occupation permit for a number of reasons cited in the notice of decision.

363 Noting this remanding action had never happened before, the Land Board Secretary sought the advice of the Planner
364 on the logistics associated with the remand. Because the Planning Board held a public hearing in which the public and
365 abutters were notified, and because the Planning Board had rendered published a recommendation, there was
366 question as to who would be responsible for the costs associated with the renotification process of the public and
367 abutters.

368 Chairman Bath also noted that an anonymous letter was also received thanking the board for its recommendation and
369 to further revisit a neighboring dog care business citing the noise from barking dogs and the loss of peace and comfort
370 in the neighborhood.

371 Planner Rowden informed the board that there are no legal provisions, neither state nor local, for the Planning Board
372 to act on the remand of the Selectboard as the Planning Board serves in an advisory role only. They heard the case,
373 made a recommendation, and submitted that recommendation to the Selectboard as appropriate. The only way for
374 the board to rehear the matter is for the applicant to reapply. The board can then act on the new application; however,
375 the board cannot be compelled to undergo a site walk. The Selectboard can disagree with the board's recommendation
376 and make an independent decision.

377 Chairman Bath inquired if the Selectboard had read all the documents associated with the case, including the Planning
378 Board's meeting minutes. As chair, he does not want to set a new precedence that home occupation recommendations
379 be remanded back to the Planning Board. He stated he was not at that meeting; however, he has read the minutes
380 and understands and supports the rationale for the board's recommendation. He believes the board did a good job
381 with that case. The Selectboard can make its own determination and then take the final action to approve or not
382 approve – that is within the Selectboard's purview.

DRAFT – NOT YET APPROVED

Mr. Cacciatore stated he visited the site after the Planning Board's recommendation was given and he couldn't see anyone located directly behind the property – only to the left and right. The homeowner's dogs did not bark while he was there, although the neighboring donkey startled him.

Vice Chair Allen stated the Selectboard's meeting minutes did not articulate the detail and rationale behind the remand. Mrs. Belcher (also recording clerk for the Selectmen's meetings) noted the reason, as she understood, was because the Selectboard felt new information because available due to Mr. Cacciatore's site walk of the property. Mr. Cacciatore agreed.

Chairman Bath, as did the majority of board members, concurred with Planner Rowden's advice that the Planning Board would not take up the matter for a second review and would communicate this to the Selectboard.

Planner Rowden further recommended the board consider revising the portion of the Home Occupation Ordinance regarding the requirement to obtain the approval of two boards. It is very confusing and no other town has such a process. This will be added to the board's upcoming review of potential zoning amendments for the March 2025 ballot.

APPROVAL OF MINUTES

Board members reviewed the April 18, 2024 meeting minutes.

MOTION: Vice Chair Allen motioned to approve the April 18, 2024 meeting minutes as published; seconded by Mrs. Cornoni. The motion passed 5-0-0.

PLANNING BOARD APPLICATION FEES

Mrs. Belcher presented newly proposed fees for Planning Board applications as was her charge from the last meeting. She cited the information provided by Planner Jerominek and the advice from Town Engineer Quintal on taking an inventory of the actual administrative time spent on each application as the rationale for the new fees. Administrative duties associated with each application include processing the initial application, correspondence/follow-up, notices of decision, findings of fact, transcribing meeting minutes. The new fee structure would include a small increase to the application and a separate fee for abutter notices. The only fee she did not propose changes was to the home occupation application fee as this was a topic of discussion at the last deliberative session whereby the public was informed the board had no intention of increasing those fees at the time. The board could look at this again in the fall when they conduct their scheduled review of the ordinance.

Chairman Bath noted the fees had not been updated in years and he was in agreement of the newly proposed amounts. Mrs. Cornoni noted the fees are still very low – much lower than are charged in the Town of Salisbury. Mrs. Belcher stated the proposed fees are consistent with what surrounding towns charge.

Planner Rowden recommended the board add a Conditional Use Fee to the schedule even though they do not have provisions in the ordinance at this time. Conditional Use is a Planning Board process similar to the Special Exception under the purview of the Zoning Board. Board members agreed.

PLANNING BOARD APPLICATIONS	CURRENT	PROPOSED
Home Occupation Application	\$200.00	Hold off on these fees until review in Fall
Home Occupation Annual Permit – Visible	\$50.00	
Home Occupation Annual Permit – Invisible	\$25.00	
Lot Line Adjustment	\$250.00	\$300 +\$10/Abutter
Site Plan Review (application fee includes abutter notifications, legal notice)	\$250.00	\$300 + \$10/Abutter

DRAFT – NOT YET APPROVED

Additional fees for the following:	\$40.00	\$50
a. Each lot/parcel	\$40.00	\$50
b. Each dwelling unit	\$20.00	\$30
c. Each elderly housing development bedroom	\$100.00	\$150
d. Non-residential Site Plan		
Subdivision (both residential and commercial) (application fee includes abutter notifications, legal notice)	\$250.00	\$300 + \$10/Abutter
Additional fee for each newly created lot	\$40.00	\$50

MOTION: Chairman Bath motioned to approve the proposed fee changes as presented including the addition of a Conditional Use Fee; seconded by Vice Chair Allen. The motion passed 5-0-0.

RPC CONTRACT

Planner Rowden provided copies of an RPC contract for circuit rider services for the period beginning July 2024-June 2025 at the same level of cost of the current contract. Board members will take this up at the next meeting.

STORMWATER MANAGEMENT

Planner Rowden informed the board she and Town Engineer Quintal have collaborated on proposed changes to the regulations regarding stormwater management. This will be added to the July agenda.

HOT TUB CHANGE OF TENANCY UPDATE

The Selectboard has been notified of the denial of the change of tenancy application for Newton Hot Tubs and enforcement actions are now under their purview. Mrs. Belcher stated she had provided the Selectboard with all the records and correspondence the Selectboard might need should the matter require legal counsel action.

ESCROW ACCOUNTS

Mrs. Belcher spoke of a discussion at the last meeting whereby some towns allow a process for applicants to request a waiver from the full amount of the required escrow amount – East Kingston’s escrow amount is set at \$2500. The process would be to complete the escrow form, make written request for a reduction of the fee with rationale, and then submit the requested new escrow fee amount with the application which would then be acted on at the first public hearing on the application. She stated she is in receipt of a minor lot line adjustment who has already done this and will need the board’s guidance on processing that application. The proposed escrow fee is \$500, and the applicant has already submitted a check in that amount.

Board members agreed to the process of allowing waivers and to setting the minor lot line adjustment escrow fee to \$500 as the professional review on such an application would be minimal. The escrow fee form will be updated to reflect the reduction in fee for lot line adjustments. The waiver process would be communicated upon a request from an applicant.

APPROVED SITE PLAN UPDATE

The board was informed of compliancy issues relating to a recently approved site plan on Main Street. Code enforcement is working to address the issues.

NEXT AGENDA

The June 20th meeting agenda shall include:

- HOP Grant Update/Land Use Audit Public Presentation 6:30-7:30pm

DRAFT – NOT YET APPROVED

- 131 North Road Subdivision Continued Public Hearing
- 2 Deer Run Subdivision Continued Public Hearing
- Fish Road/South Road Lot Line Adjustment Public Hearing
- RPC Contract Renewal

ADJOURNMENT

MOTION: Chairman Bath motioned to adjourn; seconded by Mrs. Cornoni. The motion passed 5-0-0.

The meeting ended at 9:24pm.

Respectfully submitted,

Catherine Belcher, Land Board Secretary

Minutes approved _____.