



PLANNING BOARD
TOWN OF EAST KINGSTON
NEW HAMPSHIRE

2003-2004:
James Roby Day, Jr., Chairman
Richard A. Smith, Sr., Vice Chairman

MINUTES

(Regular Meeting and Public Hearings of 15 January 2004)

AGENDA:

7:00PM- **Board Business**

7:15PM- **Discussion only** for *Tri-C Manufacturing Company, Inc.*, regarding a temporary office trailer at 33 Haverhill Road.

7:30PM- **Discussion only** for the review of a proposed tenant of *Granite State Cover Corporation* in the light industrial park.

7:45PM- **Public Hearing** for a proposed citizens' petition regarding Zoning Ordinance Article XII – ELDERLY HOUSING.

8:35PM- **Continued Public Hearing** for a proposed 2-lot subdivision of Joann E. Brandt, 41 Burnt Swamp Road, involving MBL 10-5-01 (PB#03-13).

9:10PM- **Continued Public Hearing** for a proposed elderly housing site plan of Glenn J. Tebo, MBLs 6-2-10 & 6-2-17, involving 4 duplex and 3 single units with a community center (PB#03-OH).

9:40PM – **Public Hearing** for a proposed Zoning Ordinance change to the East Kingston Building Code.

10:00PM- **Adjournment**

CALL TO ORDER: Chairman Day called the regular meeting of the East Kingston Planning Board to order at 7:03PM, and noted he and Helen Lonek, Recording Secretary, shall take notes from which to prepare minutes.

ROLL CALL: Mr. Day called the roll.

Members present – Mrs. **CE Belcher**, Chairman JR Day, Mr. JL Filio, Ex-officio Dr. RA Marston, DVM Vice Chairman RA Smith, Sr.

Alternate members present – Mr. JD Burton and Mr. EV Madej

Advisors present – Ms. Maura S. Carriel, Rockingham Planning Commission (RPC) Senior Planner
Mr. LK Smith, Chairman, East Kingston Conservation Commission Chairman
Fire Capt. Andrew Conti, East Kingston Fire Department
Mr. Kory J. Skalecki, East Kingston Building Inspector

Voting member - Mr. Day noted that January is an odd month, and that Mr. Burton shall act as a voting member in the event a member must step down, barring other considerations.

Published Agenda – Mr. Jay Laveson, *ERA* realtor, informed Mr. Day today at 4:00PM that his client, Mr. Johnson, would not be appearing as was planned. Mr. Day noted, therefore, that the last published agenda item was cancelled, to be rescheduled when the client's land acquisition plans were clarified.

BOARD BUSINESS:

Minutes-

MOTION: Mrs. **Belcher** **MOVED** the minutes of the 18 December 2003 regular meeting be approved. Dr. Marston seconded, and the motion to approve carried unanimously.

Notes & Asides-

Wingold Grange meeting. Mr. Day referred to a letter of invitation from the East Kingston Grange for the Planning Board members to attend a program entitled "Local Concerns". The program starts at 8:00PM on Friday, 27 February 2004, at the Town Hall, and will consist of an informal panel discussion of an unspecified structure or duration. Mrs. Belcher asked who was to moderate the meeting, and Mr. Day said he didn't know. He expressed his intention to attend and bring a recent Smart Growth study, and encouraged everyone to attend as well.

Planning Board budget. Mr. Day noted that the Board's end-of-year budget balance was in excess of \$5600, and that was due in great part to a reduced salary expense in 2003.

Correspondence-

RSAs 36:54 through 57. Ms. Carriel explained that the presumed regional impact of the Apple Hill elderly housing development project would best be addressed in that application's next public hearing. Mr. Day referred to his draft letter to the Rockingham Planning Commission (RPC), observing that the operative RSA calls for the Board to make a formal decision, after which the regional planning commission and abutting municipalities would be notified. The RPC would then provide its testimony as to the extent of regional impact as a result of the application in question. The Board concluded that further action will be taken at the 19 February 2004 regular meeting in a public hearing.

Richard Cook & David Sullivan commercial site plan. Referring to a letter from *Civil Construction Management, Inc.*, dated 8 January 2004, Mr. Day noted that Mr. Dennis Quintal, P.E., had requested Cook & Sullivan be placed on the 19 February agenda for a site plan compliance hearing. Mr. Quintal came forward and confirmed that the partners did want to review the commercial site plan conditional approval items to update the Board regarding their completion, and address wetland crossing and the State's comments. Mrs. Belcher indicated perhaps there are some issues the applicants should address to fully comply with the approval conditions.

Mr. Day acknowledged Mr. Quintal's request, and noted they shall be included on February's agenda. Mrs. Belcher suggested that it would be appropriate the Board notify abutters, given the length of time since the conditional approval was granted. No one disagreed, and Mr. Day stated to Mr. Quintal that abutters shall be notified.

DISCUSSION ONLY FOR TRI-C MANUFACTURING COMPANY, INC., REGARDING A TEMPORARY OFFICE TRAILER AT 33 HAVERHILL ROAD.

Mr. George Chauncey, a partner with Michael Carey, explained to the Board that Tri-C's intention remains to replace the temporary office trailer with a permanent structure, but that because the economy has been slow these several years, the firm has had to focus on just staying in business. He requested, therefore, another two-year extension from the Board for the temporary trailer.

When questioned about when he might anticipate getting rid of the trailer, Mr. Chauncey suggested perhaps in a year or so, depending on the economy and volume of business. Mrs. Belcher asked whether they had any plans to move to the light industrial park, to which Mr. Chauncey said no.

Mr. Fillio offered his opinion that he saw no problem with granting another two-year extension. Mrs. Belcher expressed her scepticism, asking when does a temporary structure become a permanent one? She felt that the Board must protect itself, insofar as it does not inadvertently vest the firm with a right to keep the temporary structure permanently. Mr. Chauncey noted that he did not want the trailer permanently because it in fact was rented, and is an on-going expense rather than an asset.

Mr. Fillio asked what sort of economic measure could be used by the Board to ascertain when the trailer should be removed. Mrs. Belcher countered with her concern that the Board have a clear understanding of by when the trailer will be removed. Mr. Fillio continued, asking what indicators are to be had to tell us the economic environment would call for the trailer's removal. He felt we could grant a two-year extension, and after two years could say NO. Discussion ensued about inflation, economic growth, GNP, and such, without the Board pinpointing an obviously useful indicator.

Mrs. Belcher asked when was the trailer first permitted. Mr. Day noted that the Board first granted permission in 1999 for a two-year period. Mr. Richard Cook, a former partner, had returned in 2001 requesting a two-year extension due to the economic downturn they were experiencing, and the request was granted.

Mr. Smith stated the Board should grant the extension. Mr. Burton suggested that the concerns expressed boil down to a legal question. He felt so long as we are clear in the understanding that the trailer is temporary and shall eventually be removed, there should not be any legal problem.

There was further discussion amongst the Board members about how we are to construe "permanent" and "temporary", so as not to inadvertently set a precedent we might regret. Mr. Day observed as a consequence of past experience, the Town has required applicants to provide a bond to ensure a trailer's eventual removal. He noted that we almost forgot about the two-year extension we granted Tri-C in 2001, and that perhaps a one-year extension would be appropriate. Mr. Burton encouraged the Board not to forget, if it is to retain its discretionary power in the matter.

MOTION: Dr. Marston **MOVED** the Planning Board grant a two-year extension to *Tri-C Manufacturing Co., Inc.*, to keep its temporary office trailer on the firm's premises at 33 Haverhill Road. Mr. Smith seconded, and the motion passed.

Mrs. Belcher iterated her concern that there be some sort of mechanism to review this issue, and Mr. Burton noted that the Board has absolute discretion over the matter.

DISCUSSION ONLY FOR THE REVIEW OF A PROPOSED TENANT OF GRANITE STATE COVER CORPORATION IN THE LIGHT INDUSTRIAL PARK.

Mr. Day opened the discussion and asked Mr. Paul Masone to present his prospective tenants. Mr. Masone introduced Mr. Steve Russell and Ms. Cheryl Price, noting that Mr. Russell has recently bought a business formerly based in Newton, New Hampshire, and Ms. Price is his business manager.

Mr. Russell described his business as a national distributor of all-natural, water-based herbal remedies for animals. The finished products are imported from England in bulk, and his firm repackages them for distribution. Mr. Russell noted that the herbal remedy is 98% water, and its formulation is an ancient one practiced by animal keepers for generations.

Mr. Burton asked about whether there are any governing federal regulations or Food and Drug Administration specifications. Mr. Russell responded, noting the regulations do address bio-terrorism. When queried about who his customers are, Mr. Russell noted they are primarily commercial farms, and mostly equine farms.

Mr. Fillio asked about truck traffic, and Mr. Russell stated he receives one large truck perhaps once every three weeks delivering large drums of the product. He uses UPS to distribute the repackaged product to customers.

Mrs. Belcher stated she would want to see an exact list of ingredients in the products for the benefit of Police and Fire, as well as for the public. She stated also that if there are any business licenses required, e.g. from the FDA, the Board be provided with copies for the record. She asked what names the products have, to which Mr. Russell described them as "BTB", "BTB Hoof", and others.

To Mrs. Belcher's question, Mr. Russell noted that one could obtain these products from a veterinarian, and are also available from his website: www.EmeraldValleyBotanicals.com. When queried, Dr. Marston said he had not heard of them. Dr. Marston enquired if the products are diluted, and Mr. Russell observed that they come already diluted, he merely repackages them in smaller containers. He further noted that the business has been conducted in Newton, New Hampshire, for at least the last six years.

Mr. Fillio asked how much space would be required, and Mr. Masone stated that there is 4800 square feet for the business. He observed that it is a niche market for water-based herbal remedies.

Mrs. Belcher asked whether the firm was actually registered in Newton as a home occupation or some such. Mr. Russell was uncertain as to what Newton had required, but noted that the Town was aware of its business. He reiterated that it was known as "Emerald Valley Botanicals", and he had just bought the business.

Ms. Carriel suggested that, given the facts, the regulation question before the Board at this point was whether the applicant be required to submit to a complete site plan review. The Board should consider questions which could address parking requirements, septic changes, etc. She noted that the Board can waive a complete site plan review if it is satisfied the facts justify it.

Mr. Masone expressed his concern for the tenants and their desire to move in this weekend, lamenting their original plan to have moved in last December 2003. Mr. Filio pointed out that such are not considerations which the Board can ever entertain in view of its charge to review and understand the nature and impact of every business activity in Town.

MOTION: Mr. Filio **MOVED** the Planning Board waive the requirement for a complete site plan review for the proposed *Emerald Valley Botanicals* tenancy. Mr. Smith seconded.

In further discussion, Mrs. Belcher reiterated her desire to see the products, to have on record any and all FDA/Department of Agriculture licenses, permits, etc., and ingredients lists for the products Mr. Russell proposes to distribute for the sake of the Police and Fire Departments, and the public. Mr. Filio suggested he would amend his motion to include such provisos, and Mr. Smith agreed to it.

Mr. Russell observed that the US government through Customs, the FDA, and the Department of Agriculture, do check his import products when they arrive in Boston, and reiterated his contention that his products are very old technology and harmless. He stated he has drunk it himself.

Mr. Day called for a vote on the motion, and receiving ayes and nays, asked for a hand vote. Messrs. Filio, Smith, and Day voted affirmative, and Dr. Marston and Mrs. Belcher voted nay. The motion having carried to waive a complete site plan review for the tenant, provided he supply all licenses and permits, and lists of product ingredients to the Board, Mr. Day closed the discussion.

PUBLIC HEARING FOR A PROPOSED CITIZENS PETITION REGARDING ZONING ORDINANCE ARTICLE XII – ELDERLY HOUSING.

The public hearing was opened by Mr. Day describing how the hearing shall be conducted. He noted that, in accordance with RSA 675:4, the citizens' petition had been submitted to the Board of Selectmen who had the Supervisors of the Checklist examine it to establish its validity, then forwarded the petition to the Planning Board to conduct a hearing. The Planning Board's rôle was to be master of ceremonies/traffic cop through the course of the hearing, and was also obligated to provide the selectmen with a recommendation regarding the petition to place with the warrant article on the ballot for Town Meeting.

Mr. Day spoke briefly about who and what an abutter is, as it is understood in New Hampshire, and noting that because it is abutters who have standing in land use matters, speakers will be asked to provide their names and addresses for the record to establish their right to comment.

The floor was given to whomever wished to speak.

Ronald F. Morales, 69 South Road. Mr. Morales read, and had distributed to the Board, a prepared statement in which he suggested that the remedies proposed in the citizens' petition will help to control growth that is already swelling the Town's population, and skewing the demographics of East Kingston. He cited a study which costed various land uses, noting that open space was the cheapest for a Town to support. Mr. Morales expressed his concern that the effect of the elderly housing ordinance was to diminish the Town's rural/agricultural character, and to adversely impact taxes by increased pressure on municipal emergency services.

Stacey L. Penna, 49 Joslin Road. Mrs. Penna, as a new resident in town, was concerned primarily about growth. She stated that she had moved to East Kingston because it was a small community with a good school. She noted she had been told the Town's growth rate was 3%.

Matthew B. Dworman, 36 Pheasant Run. Mr. Dworman noted that the number of elderly housing units in Town will shortly be 25% of the total housing stock, and lamented that the impact on our demographics is clear. He felt we should not allow growth until we can study the impacts of it on the Town's ability to provide municipal

services. He contended that it is an assumption to say that elderly housing will net more tax revenue than the cost of required additional services.

Mr. Dworman referred to ARTICLE XII – ELDERLY HOUSING B. General Standards: 9. which addresses the design and site layout of elderly housing units. He contended that the units now being built in the Maplevale development do not meet the ordinance standard that they compliment and harmonize with the rural character of the Town. He argued that what appear to be large condominiums cannot preserve our rural character.

Mr. Dworman proceeded to note the stated goals of the Master Plan, contending that ARTICLE XII meets none of them. He suggested that for his stated concerns, and the uncertainty of the long-term impact of the ordinance, the Town remove ARTICLE XII until studies can be made and results can be reviewed.

Mr. Day stated that he would strongly disagree with Mr. Dworman's description of the present Maplevale development as not fitting in with the Town's character, and that the units Mr. Dworman cited are in fact duplexes, and the architecture fits what one sees elsewhere in our community.

Mr. Ron Morales expressed his concern that we will not know the effects and outcomes of elderly housing until next year when all the presently approved units are occupied. He said he was frightened by it. Mr. Day asked him, and any who would wish to comment, what is it exactly that frightens them. Mr. Morales felt he was most frightened by the prospect of increased municipal costs.

Gail C. Anderson, 45 East Road. Ms. Anderson stated her greatest fear is traffic. In the case of the Apple Hill Adult Community application presently before the Board, she fears the increased traffic on East Road, most of which will be the elderly. Mr. John G. Cooke, 109 Haverhill Road, agreed with Ms. Anderson.

Dennis G. Quintal, 43 Main Street. Mr. Quintal recalled that the Board had made a zoning ordinance change recommendation to ARTICLE XII earlier in the year which would require the Board conduct an annual review to affirm that the ordinance remained viable. Mrs. Belcher read the change language which tasks the Planning Board to compare on an annual basis the numbers of elderly and residential housing units in Town, to be sure those numbers are balanced, as is prescribed in the Master Plan. Ms. Carriel noted that the Board's expressed intention had been to conduct the annual review at the same time it reviewed ARTICLE XIII – GROWTH CONTROL each November.

Robert E. Moore, 38 Andrews Lane. Mr. Moore felt the rate of growth in Town is too fast. He observed that even the few years between 1999 and 2003 have produced dramatic change, and he did not care for the obvious effect on the character of the community.

Ms. Marilyn Bott, 129 South Road. Ms. Bott stated she did not understand why we distinguish between residential and elderly housing with regard to accepting growth. Why are there no growth control measures for elderly housing? What is the trade-off, and how is it that we cap our residential growth at 3% and not the elderly housing.

Mr. LK Smith, Conservation Commission chairman, explained that everyone should be keenly aware that over 80% of our tax bill goes to the school districts, and it should be obvious that any kind of growth that does not increase the school population will tend to reduce the rate of growth in our taxes. Elderly housing, per se, will increase the Town's tax base, and therefore, lower a tax rate.

Ms. Bott stated she did not like what she saw as change in the character of East Kingston.

Mr. Day asked the assembled to allow the Board an opportunity to discuss the petition for a recommendation on the ballot warrant article. He observed that he himself has seen change in East Kingston in the ten years he has lived here. Despite our discomfort with it, we cannot, and are not allowed to, stop growth, and the land use planning tools we have only permit us some latitude in directing growth as the Town might wish it. As a consequence, growth is inevitable and inexorable. As for the changing character of East Kingston, it is changing, and it will continue to do so, so long as houses are built, and farmland consumed. Mr. Day repeated the Board's reasoning that elderly housing can minimize the greatest impact of growth on the tax rate by reducing the demand for schools.

Mr. Day described the response from Town Counsel who had been asked to review the citizens' petition. He stated that Counsel considers the petition provision restricting the number of elderly housing development applications the Board can accept each year to two as unenforceable.

Counsel's reasoning takes elderly housing as it is used in New Hampshire as an innovative land use. If a municipality chooses to employ such a use, it is not allowed to apply any form of growth control to that development, and limiting the number of elderly housing applications in a year does just that. Elderly housing brings with it age discrimination in favor of controlling a school population, and for that bald-faced discrimination, the *quid pro quo* a municipality agrees to is the loss of any ability to restrict growth.

Mr. Day noted that the remainder of the petitioned article does not appear to contravene State statute, but Counsel suggested that if the article is voted, it could make enforcement of the remaining provisions messy.

Mr. Fillio observed that our elderly housing developments are for people 55 years old and older. He noted that many of these new residents are still working, and probably will for some years, and the demographic chunk here and elsewhere that is 55 years old and older is large. He contended that our age demographics may not be impacted so dramatically as everyone seems to fear. Mr. Morales and Mr. Fillio exchanged comment on the rationale for the petitioned article's provision that the total number of elderly housing units be limited to 50% of the number of residential dwellings. Mr. Morales repeated his concern that we are already looking at approved elderly housing amounting to 25% of the existing residential housing stock. Mr. Fillio asked Ms. Carriel about New Hampshire's experience with elderly housing. Ms. Carriel noted that, as such, elderly housing has been in use since 1999, and Mr. Fillio suggested that was not very long to collect a large body of data. Mr. Day closed the hearing to allow the Board to deliberate.

The Board was posed the question of what to recommend to the Board of Selectmen for the warrant article. Mr. Day repeated that Counsel considered the limit on application numbers to be unenforceable. Were we able to divide the petition into parts, each could be treated separately, but we must take the petitioned article as a whole. In light of that, should the Board recommend that which on its face is contrary to statute?

MOTION: Mrs. Belcher **MOVED** the Planning Board recommend to the voters **AGAINST** the petitioned article as sponsored by Ms. Caulk and Mr. Morales which proposes to change **ARTICLE XII – ELDERLY HOUSING**.

Mrs. Belcher explained that she understood Counsel's advice, and would not want to expose the Town to possible litigation. She observed that the Board's earlier change recommendations which will be on the ballot for this Town Meeting do address monitoring mechanisms of elderly housing impacts, and should provide a modicum of growth regulation, if not control. She thanked Mr. Morales for his presentation, and admitted to her own reservations with the zoning ordinance, and her desire that, as a 35-year resident of East Kingston (she does not admit to being 35 years old, however), the rate of change be moderated somehow.

Dr. Marston seconded the motion, and Mr. Day called for a vote. The motion passed unanimously, except for Mr. Fillio who abstained as a sitting selectman.

Mr. Smith commented that perhaps we should vote to remove the ordinance in light of the concern expressed by the Town residents. He observed that it took two years after the ordinance was voted before it was used by anyone.

Mrs. Belcher observed that the first developers proposing elderly housing developments were, in fact, quite helpful to the Board in working out how best to fit them into the Town's community, and that the changes the Board recommended in June 2003 were the result of those lessons learned.

Unrecognized, Mr. Dorman interjected that he believed ARTICLE XII Section E. gave the Planning Board the power to deny elderly housing units in light of recent voters' opinions and attitudes. Mr. Day responded that the Board cannot simply exercise that authority because it wants to discourage such development. A more clear-eyed and studied reading of Section E will show its intent to be to deny those applications which obviously contravene the spirit as well as the letter of the ordinance. Quite understandably, to do otherwise would invite litigation, as the Board would be seen as abusing its power.

Mr. Day closed the public hearing.

CONTINUED PUBLIC HEARING FOR A PROPOSED 2-LOT SUBDIVISION OF JOANN E. BRANDT, 41 BURNT SWAMP ROAD, INVOLVING MBL 10-5-1 (PB#03-13).

Mr. Day opened the hearing.

For the applicant: Dennis G. Quintal, P.E. Mr. Quintal commented that he believed the questions from the December hearing have been answered. He noted that 1) the tax map lot number was corrected (his notational error), 2) a driveway permit from the State for the newly created lot was obtained, 3) approval for subdivision was obtained from the State, and 4) the Fire Department informed him that they recommend the Board approve the waiver request regarding the subdivision regulation's fire cistern/pond requirement.

When queried, Fire Captain Conti stated he had conferred with Fire Chief Mazur and Deputy Fire Chief Carter. They concluded that SECTION VII – GENERAL REQUIREMENTS FOR THE SUBDIVISION OF LAND, paragraph R, permits the Fire Chief to approve fire protection measures that include, but are not limited to, cisterns, fire ponds, and dry hydrants. In this instance, the proximity of Green Brook should provide the water for fire protection, and the brook has never gone dry to anyone's recollection. Capt. Conti explained that the Fire Department's opinion is that a waiver is reasonable in view of the expense of a cistern or fire pond. He noted they are in the process of looking for the map of fire holes used before the dry hydrants.

In discussion, Mr. Smith noted that these brooks were used years ago for fire protection, and Mr. Filio expressed concern about setting a precedent. Mr. Day asked the Fire Department provide in writing their reasoning in precise terms why the Board should consider a waiver. Mr. Filio stated that the regulation calls for 30,000 gallons on hand, and therefore Green Brook must provide at least that.

Mrs. Belcher indicated she could defer to the Fire Department on the question. She herself has never seen the brook dry.

Mr. Filio stated unequivocally that economic considerations can never be a factor when addressing public safety issues. Mr. Day agreed, and stated further that one must not take Paragraph R. out of context. Paragraph S. immediately following states "All subdivisions shall provide a suitable water supply to meet expected fire flow demands for all units in the subdivision." Mr. Day expressed grave concern that the Board not be perceived as being inconsistent in its application of regulations from one project to the next.

Mr. Madej asked what it would cost to dig a hole to collect water for fire suppression. Mr. Quintal noted that the State would never permit disturbing a wetland, but a pond could be dug in upland areas.

Mr. Burton suggested we must be clear in our understanding of SECTION VII.R. The Board has an obligation to get a Fire Department review with the Fire Chief's substantive reasoning, and felt that the Board should be consistent with regard to prior decisions. Mr. Day agreed and noted that nothing less will be acceptable than a description of how the required fire flow could be met at that location, with supporting data to show the water is available year-round.

Mrs. Belcher noted that a drainage report had been submitted, and asked Mr. LK Smith his opinion. Mr. Smith stated that the Conservation Commission found the report satisfactory. Discussion ensued about comment #4 of Ms. Carriel's plan review of 4 December 2003. Ms. Carriel observed that the information regarding poorly drained/very poorly drained soils and setbacks appear to be shown on the revised plan.

Given the uncertainty surrounding the fire suppression source of water and unresearched data regarding fire holes the Town has used historically, Mr. Day suggested the applicant request a continuance. The Fire Department will have the opportunity to research the information needed for an approval decision, and make a formal recommendation to the Planning Board. Mr. Quintal agreed. Mr. Day noted there were no property abutters in attendance, and entertained a motion to continue the hearing.

MOTION: Mr. Filio **MOVED** the Planning Board grant a continuance for the 2-lot subdivision involving MBL 10-5-1 of Joann E. Brandt, 41 Burnt Swamp Road, until 7:15PM, 19 February 20 04 Mr. Smith seconded, and the motion carried.

CONTINUED PUBLIC HEARING FOR A PROPOSED ELDERLY HOUSING SITE PLAN OF GLENN J. TEBO, MBLs 6-2-10 & 6-2-17, INVOLVING 4 DUPLEX AND 3 SINGLE UNITS WITH A COMMUNITY CENTER (PB #03-OH).

The hearing was opened by Mr. Day who noted that Mr. Tebo's engineer was not present. Mr. Tebo lamented the fact, and Ms. Carriel was asked to review her revised plan review comment memorandum of 9 January 2004. It was noted that the comments had been forwarded to Mr. Tebo and Mr. Henry Boyd of *Parker Survey and Engineering*, Exeter. Ms. Carriel explained that her comments were organized primarily to distinguish between zoning and plan completeness questions. She stated her opinion that the revised plan did not conform to the ordinance in several respects, and a considerable variety and amount of information was missing or misplaced in the plan set. She further noted that details such as traffic study, road slope, and off-street parking for individual units must be addressed for the plan even begin to take shape. Ms. Carriel recommended the Board do not accept the plan as sufficiently complete to take jurisdiction.

Mr. Tebo acknowledged the submitted plan's shortcomings, and asked if he might address questions to the Board from his engineer:

- 1) The Town Engineer in his first review noted that a 25 MPH speed limit would be appropriate for a proposed driveway location. How would the applicant go about that? Mrs. Belcher observed that, depending on where a road might be proposed, sight distance could be improved, but that the Town sets the local speed limit. Mr. Day agreed, observing that the Town speed limit is 30 MPH.
- 2) Might a waiver be granted for the required 25 foot landscaped buffer? Mr. Day indicated that the provision is a part of the ordinance, none of which can be waived unilaterally by the Board.
- 3) Would a walking path be acceptable in the 25 foot landscaping buffer? Mrs. Belcher stated her opinion that the proposed walking path locations were less than satisfactory. Steep terrain slopes and wetlands do not make for very good walking environment for the supposed elderly. She felt that a walking path in the buffer area would defeat the purpose of having a buffer from abutters in the first place.
- 4) Will a traffic study required. Mr. Day indicated it would be.
- 5) Is a plan for private utilities necessary? Ms. Carriel stated that the regulation requires all utilities be shown on the plan set.

Ms. Carriel asked to confirm Mr. Tebo's understanding of whether the wells are considered to be community wells. She confirmed that there were not enough dwellings served on each of the two wells to trigger the regulatory safeguards for community wells.

Mrs. Belcher enquired about the leach field location for units #10 & 11 and its proximity to Mr. Steve Conner's abutting property. Mr. Tebo thought the present distance would be enough.

Mr. LK Smith indicated Mr. Quintal and the Conservation Commission had reviewed the drainage report. They have concerns about the detention pond, and believe its edge is too low for the expected water level. They also noted that the proposed 15" drainage culvert alongside the road is too small. An 18" diameter pipe is necessary to ensure it is not clogged by debris.

Mr. Smith asked Mr. Tebo why the plan did not tie the road into Grand View Terrace in Kingston for ease of access and dwelling placement. Mr. Tebo claimed he had proposed that to the State in an earlier attempt to develop the land, but the State did not want the extra traffic onto NH Route 111 at that point.

Mr. Day suggested that, in light of the multitude of discrepancies, missing information, incomplete plan concepts, and unanswered questions, Mr. Tebo request a 60 day continuance. He further noted that there were no abutters present for comment.

MOTION: Mrs. Belcher **MOVED** the Planning Board grant a continuance for the site plan review involving MBLs 6-2-10 & 6-2-17 of Glenn J. Tebo for an 11-unit elderly housing development on Greystone Road until 7:15PM on 18 March 2004. Mr. Fillio seconded, and the motion carried.

Mr. Day closed the hearing.

PUBLIC HEARING FOR A PROPOSED ZONING ORDINANCE CHANGE TO THE EAST KINGSTON BUILDING CODE.

The hearing was opened by Mr. Day who explained his discussions with Town Counsel. Counsel had suggested language which would remove any doubt about the Building Code remaining current by virtue of amendments to the applicable NH RSA automatically adopted and used by the Town.

Mr. Burton questioned the need for Counsel's caveat that any change to assorted referenced codes be approved by the Planning Board. He felt it to be moot, in view of the over-arching authority of the State. Mr. Day indicated he would clarify with Counsel, and in the event, treat any alteration to the proposed change as an administrative correction.

Dr. Marston asked whether the new code will allow the use of native lumber. Mr. Skalecki responded that it did, but the administrative process to do so is rather long. Mr. LK Smith wondered if the State had finalized its regulations on the matter, but Mr. Skalecki was unsure of it.

Mr. Day noted there were no members of the public to offer comment, and entertained a motion to place the Building Code Ordinance change recommendation, corrected if necessary, as a warrant article on the ballot for Town Meeting 2004.

MOTION: Mr. Fillio **MOVED** the Planning Board place the Building Code Ordinance change recommendation as a warrant article on the ballot for Town Meeting 2004. Mr. Smith seconded, and the motion carried.

Mr. Day closed the hearing.

ADJOURNMENT:

MOTION: Dr. Marston **MOVED** the Board adjourn. Mr. Fillio seconded, and the motion carried unanimously at 10:06PM.

Respectfully submitted,

James Roby Day
Minutes approved *19 February 2004*