

TOWN OF EAST KINGSTON, NH  
PLANNING BOARD MINUTES

DATE OF MEETING: JANUARY 17, 2002  
PLACE OF MEETING: EAST KINGSTON TOWN HALL  
TIME OF MEETING: 7:00 P.M.  
TYPE OF MEETING: MONTHLY MEETING

PRESENT: Richard Smith, Chairman; Beverly Fillio, Vice Chairman; John Fillio, Ex-Officio; David Morse, Dr. Robert Marston, and J. Roby Day, Alternate.

OTHERS PRESENT: Maura Carriel, Rockingham Planning Commission  
Larry Smith, Conservation Commission  
Andy Conti, Fire Department  
Kent Shepherd, Building Inspector

CALL TO ORDER: Mr. Smith opened the meeting at 7:03 p.m. Roll call was announced by Mrs. Rice.

PUBLIC HEARING FOR PROPOSED ZONING ORDINANCE AMENDMENT TO THE EAST KINGSTON ZONING ORDINANCE FOR ARTICLE XVIII-IMPACT FEES FOR PUBLIC CAPITAL FACILITIES

Mr. Smith opened the public hearing and turned the hearing over to Mr. Day for a review of the proposed ordinance.

Mr. Day explained the proposed ordinance was proposed under RSA 674:21, Innovative Land Use Controls. The purpose of the proposal is to authorize the Planning Board to assess impact fees as a condition of approval of any subdivision or site plan. This would require the applicant to bear costs for the applicant's fair share of off-site improvements to public facilities affected by the development. Mr. Day further explained that a current CIP also needs to be in place, which the Town currently has. He noted that this proposal has sections that have been tested and untested within the judicial system and this proposal has been reviewed by Legal Counsel. It was found to be sufficient.

Mr. Day reviewed section B. Purpose, outlining the fact that the assessed impact fees shall be in proportion to its demand for the Town's Capital Facilities and its school district(s). He also reviewed the five underlying criteria.

Mr. Day reviewed section C. Definitions which defines what items may be included for the assessment of impact fees. He reviewed various definitions.

Section D. Principles of Application gives the authority and guidelines for generating the actual dollar amount as reviewed by Mr. Day.

Mr. Day reviewed E. Findings of Need details the existing and proposed needs within the community and

school systems, including the middle and high schools.

Mr. Day explained F. Fee Assessment and Imposition Process which allows the Planning Board to develop and adopt the methodology and schedule for the calculation of impact fees using a reasonable, rational and proportional method.

Mr. Day reviewed G.Exemptions and explained the various types of construction that would be exempt and he further explained H. Waivers including provisions for actual material item verses payment of money.

Mr. Day explained I. Computation of Impact Fees and J. Payment of Impact Fees. He further reviewed K. Appeals and L. Administration of Funds Collected. He noted that if the funds are not used within six years of collection, they would be returned to the fee payer.

Lastly, Mr. Day explained O. Scattered and Premature Development and P. Review.

Mr. Smith asked for public comments. There were none at this time.

The board reviewed the other half of this implementation, which is the establishment of the regulation to determine the amount to be collected. This regulation will be reviewed each year and adjustments, if necessary will be made at that time. It was noted the fees cannot be applied without the ordinance.

Mr. Fillio made a motion to present Article XVIII-Impact Fees For Public Capital Facilities Ordinance to the voters for the March, 2002 Town Warrant.

Mrs. Fillio seconded. The motion passed unanimously.

JAN AND PHIL TYRELL, 101 GILES ROAD, DISCUSSION ABOUT PROPOSED SUBDIVISION OF LAND

Mr. and Mrs. Tyrell were present. A presentation of a proposed two lot subdivision was presented to the board.

Mr. Tyrell explained they are seeking a variance to create a second lot for their daughter and family. Currently they have 233' of frontage where 240" is required. The Tyrells are asking for a common driveway, not the installation of a road. He asked for assistance in proceeding with this proposal.

Mr. Day noted that as proposed, the second lot only contains 3.27 acres, but according to the regulations, 5 acres would be necessary. He further advised Mr. Tyrell he would need to apply to the Zoning Board of Adjustment to seek a variance on the frontage issue.

Mrs. Fillio explained the board cannot act on this request.

The board advised the Tyrell's they must go to the Zoning Board of Adjustment for the variance regarding the frontage and common driveway. It was further noted that application would need to be made to the Planning Board so that the Planning Board can deny this request. It was further clarified that the Planning Board must deny this request before application can be made to the Zoning Board of Adjustment.

CONTINUED PUBLIC HEARING FOR LEWIS BUILDERS, 40 WILLOW ROAD, PROPOSED 40 2-BEDROOM ELDERLY COMMUNITY

Mr. Peter Lewis, Attorney Robert Fryer, Mr. Christian Frey and Mr. Russell Prescott, PE were present. Mr. David Morse stepped down from the board.

Plans were presented showing a proposed 40 2 bedroom elderly community located at 40 Willow Road.

Mr. Frey introduced himself and explained Mr. Russell Prescott was present from Prescott Pump to discuss the water system for this community.

Mr. Prescott explained two wells had been drilled on the property. Reports were distributed to the board regarding Well 1 and Well 2 regarding water quality, recovery, capacity, static level and depth. Well 1 is 12 feet to bedrock with 40 feet of steel casing and at 195 feet they picked up a water bearing fracture. Currently this well has 60 gallons per minute to operate the water system. A second well was drilled, reaching bedrock at 13 feet with 40 feet of steel casing. Currently this well has 16 gallons per minute. With the combination of the two wells it can be proved that this water system will function. A three day well test was completed in mid-December showing continued capacity and an extrapolation for 180 days was provided within the report. Another report was submitted showing the impact of these two wells in the surrounding area. The test well used was Mr. Morse's which is 1,000 feet away. According to the reports presented, there was not much of an impact and Mr. Prescott explained the report regarding the draw down and recovery in inches.

Mrs. Fillio asked if this was the nearest well in the area. She expressed concern over water quantity for the abutting properties and impact of these installation of these wells on those people.

Mr. Prescott stated this is the nearest well and he would not know about the impact of the water supply out of the zone of 1,000 feet. He explained the cone radius and cone of depression. He stated he does not know the exact flow of the water.

Mrs. Fillio asked if these wells would affect the people downhill of this development.

Mrs. Prescott referenced the report which noted the wells would not impact the surrounding area and would be presented to the state hydrologist for approval.

Mr. Smith asked how much water would be needed for the residents of this community.

Mr. Prescott stated that on an average, with a safety factor of almost 2, 45,6000 gallons per day. That is the total of 300 bedrooms and the library. This is based on 150 gallons per day per bedroom with a source capacity of twice that amount. When this test was given for three days at 65 gallons per minute, the average would be 30 per day. Mr. Prescott also explained the computation or necessity of 65 gallons per day.

Mr. Day asked where on the lots the two wells were drilled.

Mr. Frey stated they are not shown on the plans. It was further noted one well is located on Cricket Hill and one located at Maplevale. This system is being designed for both complexes.

Mr. Smith asked about alternative wells. It was noted a pressure tank would be installed which would contain a supply of water for one day and the wells could be repaired within 24 hours. The tank size is 46,800 gallons. It was noted the tank would be topped off all the time so that it would always be available.

Mr. Prescott also noted that a normal test time is usually 48 hours, but to prove they had the water capacity they ran this test for 72 hours.

Mr. Smith noted concern regarding the proximity of the well to his land and his well going dry.

Mr. Prescott discussed the recovery process when the test is completed. This was reviewed with the board with both well 1 and 2 as well as the test well. The recovery was completed on all the wells within 5 hours at 95%. It was noted that these wells are 6" in diameter. No data is available for the existing well at Maplevale.

Mr. Josh Bath asked when the tests were conducted.

Mr. Prescott stated they started at 8 a.m. on December 15<sup>th</sup> and were completed at 8 a.m. on December 18<sup>th</sup>.

Mr. Bath asked about summer usage, impact of the consumption of water at this time of year and how a drought would affect the surrounding areas.

Mr. Prescott stated that this past fall, this was the worst drought in many years and they were testing during a worst case situation.

Mrs. Fillio asked if there would be a guarantee that the effect of these wells will not effect Mr. Pollard or other surrounding wells. She asked how would she know this.

Mr. Prescott stated he would not know, but explained the 1,000 foot radius test well and the stabilization of that well. Stabilization occurred after 1000 minutes.

Mrs. Fillio asked Mr. Prescott in his professional opinion that he could guarantee the surrounding wells in that area would not go dry.

Mr. Prescott stated yes he can. He noted it is a bold statement, but the science is behind it.

Mr. Dick Pollard expressed concern over the two wells serving this development, but if he proposed a ten lot house development he would need to put in ten separate wells. He noted concern over two separate businesses, crossing property lines to service these developments.

Mr. Day stated the precedent has been set with Brandy Wine Drive.

Discussion followed regarding the water system, set up of the water company, water location issue, and money issues.

Attorney Robert Fryer explained the water supply system will be a public utility company as it serves 25 customers. Review of this company will be overseen by the Department of Environmental Services. He

noted that water must be supplied to the customers and if the wells fail, water would be supplied by any means possible.

The board discussed town accountability and burden, fire suppression, public utility companies and the formation of such obligations.

Mr. Pollard asked why two separate systems could not be installed, instead of one system.

Mr. Prescott stated in order to create a water system, they must establish there is no other water system to tie into. If a system was proposed and another was proposed, it would be a state requirement for them to be combined. It is felt that one system is better with one source and less impact in the surrounding areas.

A discussion about the town library hooking into this system was discussed and felt that the new library if built, would not tie into this system.

Mrs. Fillio asked about the liability to protect the surrounding area and assuring the abutting area that the water supply will still be in tact. She asked about other systems in this area.

Mr. Prescott stated there are systems in this area and if the system is larger there is gradation testing for size, impact as well as pumping testing length of time.

Ms. Carriel asked about the state monitoring of the system and future testing if the water supply exceeds these requirements.

Mr. Prescott responded that if they exceed the consumption rate for any day during the year, then additional testing would need to be performed. It was noted that annual tests are performed by the state and daily tests are performed every day on the system.

Mr. Lewis discussed with the board the Walnut Ridge Water System and his experience with the water companies and his experience with Public Utility Companies.

Mrs. Fillio asked Attorney Fryer if he saw any conflict between the two separate entities regarding the well.

Attorney Fryer stated no.

Mr. Smith expressed concern over his water supply and watering his animals. He compared the depth of his well to the new drilled wells. He noted concern over the new homes built on his road and impact they have on the surrounding communities.

The board discussed with Mr. Lewis the water company, contacting the state with regard to the regulations regarding water systems and the preference on the part of the state to combine these wells. The board also discussed the safety issues. It was noted to have this water system combined is a choice. It was noted that because this is a public utility company, the residents would pay for the water usage.

Mr. Smith requested a map be presented showing the location of the new wells and the location of the test well. Existing wells in the area were also asked to be placed on this map.

Ms. Carriel asked if this discussion would be held again for the Maplevale Discussion in February.

Mr. Prescott stated he would be happy to come back again to discuss it under the Maplevale proposal, as well.

Mr. Prescott thanked the board for their time and will be present at the next meeting.

Ms. Carriel asked if the applicant had revised plans.

Mr. Frey stated he has revised plans and it was noted that they had not been submitted previously for review.

Plans were presented and Mr. Frey asked to address the outstanding items brought forward in the review letter.

PUBLIC HEARING FOR A PROPOSED NON-RESIDENTIAL SITE PLAN REVIEW FOR JULIAN DUNLOP, TAXMAP 14, BLOCK 2, LOT 5

A representative for Mr. Julian Dunlop was present. He informed the board that Mr. Dunlop was out of the area and would not be present for tonight's public hearing.

Two abutters were present, no names were given.

Mr. Fillio made a motion to continued the Public Hearing for Mr. Dunlop until March 21, 2002 at 8:15 p.m. at the East Kingston Town Hall.

Mrs. Fillio seconded. The motion passed unanimously.

The board took a five minute recess.

CONTINUED DISCUSSION WITH LEWIS BUILDERS

Mr. Frey noted item #1 dealt with the lot line adjustment proposal with Maplevale. He noted he has an authorization letter from Jack Hirsch. The application and plan will be submitted to Ms. Rice. It was noted the abutters from Maplevale need to be notified.

Mr. Frey responded to the memo written by Ms. Carriel on December 20, 2001. The boundary monuments that were missing have been added, a waiver has been requested for soil delineation and granted-this is noted as note 20, note 18 has been added to sheet 1, the wetland scientist stamp has been affixed to the plans, private trash pick up will be provided for this community with one dumpster being on-site with screening, the foot print showing the size and layout of the units and first floor slab elevations were provided, all proposed finish grades, contours and building elevations have been added.

The board noted the decision of the length of the cul-de-sac has not been decided upon. A proposal for the loop road was submitted and Mr. Day did not feel this complies with the Subdivision Regulations. It was

noted that this issue was discussed at the last meeting, but no agreement or final decision was discussed. No vote was taken on this issue. The board discussed putting a road from Crike t Hill to Maplevale.

Mr. Frey thought they had a satisfactory agreement to put in a 12 foot emergency access that would be gated.

Mr. Lewis stated they have talked to the Fire Chief about this issue, but no letter has been received from this department.

Ms. Carriel talked with the board regarding the actual road connection and emergency roadway access.

Mr. Smith noted this will be an issue with Maplevale because their cul-de-sac is too long. The board discussed the private projects being proposed and the joint water systems. It was noted the condominium association would handle the maintenance of the roads and the water supply system would be a public utility company.

The board discussed with Mr. Lewis the 1,000 foot dead end road length and noted this is based upon safety factors. The board feels the applicants need to deal with this issue and provide the second egress. The board discussed how the dead end road is measured. The board discussed loop roads, measurements, lollipop roads, and cul-de-sacs. The board asked that all access/egress issues be fully explored between this project and Maplevale.

Someone asked about the board taking a vote on the cul-de-sac length issue.

Mrs. Fillio did not feel this was the proper time to take a vote on how the board feels on the dead end road length.

Mr. Day felt that additional research and investigation needs to happen with regard to connecting these developments.

Mrs. Fillio read the regulation regarding the 1,000 foot length road in its entirety.

The board continued to discuss this issue with Attorney Fryer, Mr. Lewis and Mr. Frey. Suggestions were made that if the road was 700 feet with a lollipop on the end it would be conforming. It was noted that if the board could not decide on this issue and it was voted down, it would be appealable to Superior Court. The board noted the input from the Fire Chief, but noted the Planning Board makes the decisions.

Dr. Marston felt the road was over 1,000 feet in length.

Mr. Fillio feels the cul-de-sac regulation concerns a single road, of which the length should not exceed 1,000 feet. He feels the single road does not exceed the 1,000 feet because once you reach the 700 feet there are two ways to go. If it was a 1,000 feet straight down, you would have only one way to go, so it is the single lane road, single access that it a problem. He noted the single access cannot exceed the 1,000 feet. He feels that at 700 feet, it is legal.

Mrs. Fillio stated the furthest most back lot, you don't go straight back, but have to go around one side or the other to get there. Time wise for safety reasons, it is longer.

Mr. Fillio stated the mid-point for the loop extending from the intersection from a straight line is equal distance from the intersection on the loop and can go either way and not to the mid-point.

Mrs. Fillio stated she would like to see the connection and it would give another way of egress.

Mr. Day referenced the regulation and noted it mentions a single entrance point.

The board continued the debate regarding the measurement of the 1,000 foot length.

After discussion the board was polled as follows:

Mr. Day felt the proposal does not conform to the regulation.

Mrs. Fillio agreed the proposal does not conform to the regulation.

Mr. Fillio disagrees, he feels it conforms.

Dr. Marston agrees, the proposal does not conform to the regulations.

Mr. Smith also agrees, the proposal does not conform to the regulations.

Mr. Fillio asked the applicants to explore the options.

The board suggested obtaining another crossing to the abutting property.

Attorney Fryer noted they have developed other elderly complexes and people prefer the cul-de-sacs because it is a "closed" road without the thru traffic. The board discussed the security issues.

The board discussed the landscaping, including a 25' buffer will be provided. The vegetative buffer will not be as shown on sheet 3 near the wetlands will be left natural, but near one of the abutters, will have spruce and pines planted. The board reviewed the 12 foot wide gated access way to Maplevale to provide an emergency access. The board noted this is not considered a thru-road at this time. Note 17 has been added to sheet 1. The sign location, size, and graphics were re-designed. The sign is not illuminated. The board reviewed the outside lighting plan which shows sodium lights. The individual outside home lights have been designed so that the light flow will not extend past the property lines, ½ foot candles are being proposed. Foot candles were also discussed. They will be using a shoe box type light. The community center has two high pressure sodium lights. A street light will be located on the utility pole at the intersection of Cricket Hill.

Mr. Day discussed light pollution and the most recent publication from OSP regarding this issue.

The board reviewed the erosion and sediment control plan. It was felt that more detention was needed on site and could be achieved by implementing another treatment swale and grading.

Ms. Carriel stated the list Mr. Frey went over was the checklist for completeness.

Additional concerns need to be discussed with the board. Additional items include a letter from the Fire



Chief, including fire pond details including an access easement. The board discussed the minimum and maximum amount of living space required for each unit. It was noted the fire pond area needs to be described in metes and bounds. The board noted that either a letter from the Police Chief or attendance at a meeting was necessary. Mr. Fillio stated he would bring this issue before the Board of Selectmen. The Planning Board prefers something in writing from the Police Department.

Mr. Larry Smith noted the dredge and fill permit has been issued, thus there is no reason to write a letter.

Mr. Frey asked the board to consider the acceptance of plans for jurisdiction as the state permits are pending and the checklist has been completed. He noted that in order to proceed with the review of the Town Engineer, the plans need to be accepted for review.

Mr. Day feels the plans are unacceptable at this point.

Mrs. Fillio noted that Ms. Carriel has not had a chance to review the plans as she received them tonight.

Mr. Smith noted the connection of streets needs to be further reviewed. The board discussed continuing the public hearing until next month or acceptance of the plans.

Mr. Day made a motion to continue the public hearing until March 7, 2002 at 8:15 p.m.

Mrs. Fillio seconded. The motion passed unanimously.

Mrs. Fillio informed the applicants the board has voted to conform to the time frame of the agenda and asked if one hour would be sufficient.

The applicants stated one hour should be sufficient.

Mr. Morse resumed his position with the board.

#### OTHER BOARD BUSINESS:

#### DISCUSSION OF JAMES AND KAREN BIOTEAU:

Mrs. Rice explained one year ago conditional approval was given for a lot line adjustment for James and Karen Bioteau at 177 North Road and Giles Road. Mr. Bioteau contacted Mrs. Rice with regard to satisfying his conditional approval. Mrs. Rice noted State Subdivision Approval has not been received, and Mr. Bioteau asked for a continuation of the approval until the February 7, 2002 meeting so he could obtain the approval. Additionally, Mrs. Rice brought forward the plans regarding the well radius being shown on the plans. It was noted the conditional approval was granted on January 18, 2002, with the notice of decision issued on January 19, 2002. Mrs. Rice noted according to Mr. Bioteau he has been in conjunction with the State regarding his State Subdivision Approval.

The board asked that Mr. Bioteau be notified to meet with the Board on March 21, 2002 at 7:15 p.m. and the well radius shall be professionally drawn on the plans.

#### DISCUSSION OF TRANSFERRING LOTS IN AN UNAPPROVED SUBDIVISION:

Mrs. Rice informed the Board of RSA 676:16 regarding penalties for transferring lots in an unapproved subdivision with regard to the question raised by Mr. Erickson at the last meeting. This statute was read in its entirety by Mrs. Fillio.

DISCUSSION OF BUILDING PERMIT ISSUANCE:

The board discussed the issuance of building permit for the upcoming year. It was noted that discussion has taken place with John Daley regarding the enforcement of Article 9 and the transference of building permits to a second party. Mr. Shepherd discussed with the board there may be two instances where building permits would be sold to another party.

DISCUSSION OF JONES AND BEACH ENGINEERS, RESIDENTS OF MAPLEVALE WAIVER REQUEST:

Mr. Smith noted a waiver request was received by Maplevale Turkey Farm for a waiver request regarding Subdivision Regulation 4.E regarding driveway access onto a street or highway. Some of the proposed lots have common driveways. The board reviewed the waiver request. The Board also received another request for changing the typical roadway cross section to allow a 2:1 side slopes with guardrails at the wetland crossings.

The board reviewed these requests and were confused about the wording of these waivers. The board feels that the waiver regarding the slope issue is an incorrect request.

The board discussed granting these waivers at this time and taking action during the public hearing.

Mr. Smith stated he would take up these actions during the next continued public hearing.

The board discussed the cross-section as designed by the Board Engineer and the confusion it is creating when plans are submitted. Mr. Quintal feels the cross section is appropriate, but the board has the ability to waive the regulations. He feels it would be difficult to change the cross section for non-typical wetland crossings.

DISCUSSION OF CONTRACTUAL SERVICES FOR ROCKINGHAM PLANNING COMMISSION-CIRCUIT RIDER PROGRAM

Mr. Smith advised the board under the current contract, services from Rockingham Planning Commission include one meeting per month. However, due to the work load, the board has been meeting twice per month. The board and Ms. Carriel discussed the agendas, asking for additional meeting coverage for the Circuit Rider to be present and the billing of the non-contractual services. The board discussed contracting services for two meetings per month, instead of the current one meeting per month.

The board discussed asking the Board of Selectmen for an additional six more meetings per year and noted the new contract begins as of April 1<sup>st</sup>.

The board discussed the services received from the dues paid to Rockingham Planning Commission.

Mr. Smith will meet and request in writing from the Board of Selectmen an additional six meetings per

contractual year.

Dr. Marston made a motion to adjourn at 10:54 p.m.

Mr. Morse seconded. The motion passed unanimously.

Respectfully submitted,

Susan J. Rice, Secretary

Minutes completed on January 23, 2002.

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