



DRAFT

7
PLANNING BOARD
TOWN OF EAST KINGSTON
NEW HAMPSHIRE

2007-2008
James Roby Day, Jr., Chairman
Catherine Ellen Belcher, Vice Chairman

MINUTES

(Work Meeting and Regular Meeting of 17 January 2008)

AGENDA:

- 7:00PM -- **Board Business**
- 7:05PM -- **Discussion for a revision/update of Zoning Ordinance Article XII – Elderly Housing**
- 7:30PM -- **Continued Board Business**
- 7:31PM -- **Adjournment**

CALL TO ORDER: Chairman Day called the regular meeting of the East Kingston Planning Board to order at 7:00PM.

ROLL CALL: Mrs. White called the roll.

Members present- Mrs. CE Belcher, Vice-Chairman; Mr. JR Day, Chairman; Dr. RA Marston, Mr. RA Smith, Mr. R Caron, ex-officio.

Alternate members present –Mr. EA Lloyd and Mr. RF Morales. Mr. Sullivan was on excused absence.

Advisors present – Mr. Eric S. Steltzer, Planner, Rockingham Planning Commission (RPC).

Mr. Andy Conti - Captain, East Kingston Fire Department

Mr. RR Donald, Building Inspector

It was noted that Mr. LK Smith, Conservation Commission Chairman, was not in attendance.

Voting members –Chairman Day noted there was a full voting Board present for voting purposes.

BOARD BUSINESS

Mr. Day reviewed the handouts with the Board.

Elderly Housing Worksheet. Mr. Day included a worksheet on the Article XII Elderly Housing amendment. The Board would have further discussion on this later in the meeting.

Mr. Steltzer's e-mail. An e-mail from Mr. Steltzer also pertaining to the Elderly Housing question. This too will be discussed later in the meeting.

Zoning Ordinance Summary /Septic Setbacks. Included are the Building Inspector's comments; discussion to follow.

Another e-mail from Mr. Steltzer. This one is regarding the CIP. Mr. Day reminded the Board that Mr. Steltzer was hired to re-do the CIP. There will be discussion on this later.

East Kingston Tax Table. Mr. Day suggested this table be incorporated in the Zoning Ordinance for growth control.

Kennel Article. Mr. Day referred to a kennel article distributed by Mrs. White which was informative and would be filed in the "kennels" file should it be needed at a later date.

Minutes. Mr. Day asked if there were any changes noted to the December 20 meeting minutes. Board members offered no changes. Mr. Day offered a note of clarification from Conservation Commission Chairman Larry Smith on

a statement made by Dr. Marston at the December meeting. At the end of paragraph 8 on page 3, the statement reads: *“Dr. Marston offered that Mr. Turco has a large parcel of land adjacent to his and no one has approached him in regard to conservation easements yet. It seems he has the same problems as the acreage across from Mr. Morales.”* Mr. LK Smith clarified both Mr. Turco and Mr. Carter, the gentleman across from Mr. Morales, **had** been approached regarding conservation and both had declined because their family heirs were opposed to putting the land in conservation. Mr. Day noted if it were left up to Mr. Turco, his land would be left in conservation, but he wanted to let his heirs decide what they wanted to do with the land, which did not include conservation.

Mr. Day offered a short story. It seems that former RPC Commissioner Forest Griffin owned a large farm in Exeter that his children wanted him to sell and subdivide. He decided to put it in conservation in spite of their wishes, which upset his children, but Exeter was very grateful, as it was quite a large piece of land.

Mr. Day entertained a motion to approve the December minutes.

MOTION: Mrs. Belcher **MOVED** the Planning Board approve the 20 December 2007 minutes as presented. Mr. Caron seconded, and the motion passed unanimously.

DISCUSSION FOR A REVISION/UPDATE OF ZONING ORDINANCE ARTICLE XII – ELDERLY HOUSING

The Board was there to discuss the Zoning Ordinance change recommendation they had discussed previously. Mr. Day reviewed that the Board members had the original Elderly Housing Ordinance before them, along with the Worksheet he had provided for tonight’s discussion. Mr. Day proposed two changes to the ordinance.

- The first change was to come to a consensus of a specific timeframe that the Board was to review this particular ordinance each year, as they were mandated to. This year they had waited too long and had just barely avoided the point in time that would make it too late to make any necessary changes before Town Meeting. The point of deciding on a specific timeframe was to avoid this dilemma in the future and give the Board ample time to make any changes should they so desire. Mr. Day’s recommendation was to change the wording in Article XII.B.3. that reads *“This provision shall be reviewed annually ...”* to read: *“This provision shall be reviewed not later than October”*...
- The second change was to decrease the percentage of elderly housing units allowed from 25% to 10%. Mr. Steltzer had researched several other towns and had found that East Kingston had, by far, the most generous percentage for elderly housing of all of them.

Mr. Day asked Mr. Steltzer if there were any new updates since he had provided the information in the e-mail to the Board. Mr. Steltzer added that Newton had revised their article and it seems they have taken the section out entirely. They had 10% on the books and now they wanted to allow as much elderly housing as possible.

Mr. Lloyd noted that there seemed to be two points of view on elderly housing in surrounding towns – either unlimited or between 5-10%.

Mr. Smith asked if the Board had not already made a determination of 4%. Mr. Day explained that the 4% was only part of the equation. The 4% applies to the total number of standard residential dwelling units then existing in East Kingston, which is for any given development that might come to the Board. Any application for elderly housing coming before the Board would be limited to 4% of the standard residential houses in the Town at that time. The total percentage of all of elderly housing allowed is presently limited to 25% of the standard residential houses in Town. Mr. RA Smith noted that there was too much elderly housing currently. Mr. Day replied that the change the Board was contemplating would change that percentage.

Mr. Morales noted that by changing the percentage to 10%, the number of elderly houses allowed would already be over the allowable number and it would be several years, perhaps 10 years, before any more elderly housing was able to be developed. Mr. Lloyd interjected that the elderly housing percentage was already at 21%, so it would indeed make the number already over what was allowed.

Mr. Day understood that as the Town grew, the door would open to more elderly housing. He did not want this change in percentage to be confused with growth control, which it was not. Mr. Morales interjected that there was no obligation to provide for elderly housing. Mr. Lloyd offered that with the change in percentage of allowable

elderly housing, the regular stock of housing in the Town at the present time would need to double before more elderly housing could be allowed.

Mr. Day stated that several years ago Mr. LK Smith had computed that with a complete build-out of the Town, the population of the Town would be in the neighborhood of 5,000; this was before any conservation easements and so the number would certainly be different now. Mr. Morales wanted to know if Mr. LK Smith could compute that number again allowing for the conservation easements, he thought it would be helpful for the Board to know what the new figure was. Mr. Day offered that there was less than 15% of East Kingston's landmass in conservation; there is still a lot of open space in Town. Mr. Steltzer noted that zoning restrictions could change as population density changed.

To Mr. Day's statement that there were 900 houses presently in East Kingston today, Mr. Lloyd enquired if it was feasible that at some point the housing stock could double to 1,800. Mr. Day agreed it was feasible.

Mr. Lloyd wanted to know if the Board would consider a number of 15% instead of lowering it to 10%, so the drop in percentage would not be so dramatic. He noted that as of last month's meeting, he would have been happy to leave it at the present 25%. He had since changed his mind with Mr. Steltzer's figures of what the surrounding towns were doing.

Mrs. Belcher offered that she was not sure who would want more elderly housing except for developers. She opined that if a poll were to be taken, the people in Town would agree that they already had enough elderly housing. She agreed that the Board could change their minds in a couple of years if they thought the situation warranted it. At the present time, there was an adequate number of elderly housing units and public services could meet their needs.

Mr. Donald asked what kind of impact elderly housing versus standard housing had on the Town at the present time. Mr. Caron responded that elderly housing developments were mostly self-sufficient and the Town only provided emergency services – Police, Fire and EMS. There were no Police calls and he thought the Fire calls to be minimal. He asked Mr. Conti what the impact was; Mr. Conti answered that there were no fire calls, only EMS calls. The elderly housing units were new construction and safer than older housing. Mr. Donald also noted that when an old house burned, a newer and safer house was built in its place, constituting less of a fire hazard

Mr. Conti reported that there were perhaps 6-12 EMS calls related to the elderly housing units. Mr. Morales noted that East Kingston had the oldest population of towns in New Hampshire. There was a noted influx of older people into the state and everyone else in Town, not just in the elderly housing areas, was getting older too.

Mr. Day noted that he had seen the Town grow tremendously in the time he had been there. There used to be one full time and two part-time officers in the Police Department, one Administrative Assistant in the Selectmen's office, and the Fire Department was not too busy. At the present time there are two full time persons in the Selectmen's office, and 4 full-time and 3 part time Police officers and one half time Administrative person in the Police Department. And the number of calls for the Fire Department increases each year.

Mr. Day noted that East Kingston has outstripped the neighborhood in their growth rate, which is one of the biggest justifications for their growth control. Last year East Kingston grew over 7%, while surrounding towns only grew 3%. This growth was primarily attributable to elderly housing.

Mrs. Belcher noted that it was no secret that a developer wanted to buy the Turco property, and seemed to recall that Autumn Lane had a clause in the covenants about being able to add more homes. She opined that the developers concern was building and selling houses and not with the Town's growth control. Mrs. Belcher noted that East Kingston has done its share to accommodate the baby boomers and the changing demographics. She acknowledged she would be content changing the number downwards, but wanted to make sure the number the Board chose would be defensible in court should there be any challenges. Mr. Donald agreed. Mr. Day interjected at the present time the Board could accept an application for 30 units of standard housing.

Discussion ensued regarding the percentage of surrounding towns as opposed to the present percentage of East Kingston.

It was decided that the Board would not be closing the door to more development by changing the percentage to a lower number. Mr. Morales noted they would be keeping in balance with the rest of the towns in the state. Mr. Day noted they were not closing the door, but allowing time for room when they could accommodate a more stable mix of population. Everyone agreed that it could be several years before more elderly housing was allowed if the percentage

rate was dropped, but that since the ordinance was reviewed on a yearly basis, it was open to change. Mr. Steltzer noted that the growth rate in East Kingston was 7%; both 10% and 15% were discussed as better percentages than the present 25%.

MOTION: Dr. Marston **MOVED** to change the percentage of allowable elderly housing units to a figure not to exceed 10% of the total number of standard dwelling units in the Town of East Kingston. Mr. Caron seconded.

Mr. Lloyd noted if the percentage was lowered to 15%, it still could be a long time before any more elderly housing would be allowed. After Board discussion, it was agreed that 15% was a less drastic decrease. Dr. Marston rescinded his original motion for 10%.

MOTION: Dr. Marston **MOVED** to change the percentage from 25% to 15%. The original ordinance wording reads: *"The total number of elderly housing units shall not exceed 25% of the total number of standard dwelling units in the Town of East Kingston."* The new wording will read: ***"The total number of elderly housing units shall not exceed 15% of the total number of standard dwelling units in the Town of East Kingston."*** Mr. Caron seconded; the motion passed unanimously.

Mr. Day asked if the Board also wanted to insert a specific timeframe in the ordinance as to when it was to be reviewed, so as to alleviate the last-minute rush they were now experiencing. The Board agreed this would be a good idea. Mr. Day suggested they change the word *annually* to *no later than October*, and asked for a motion.

MOTION: Mrs. Belcher **MOVED** to change the ordinance from: *"This provision shall be reviewed annually..."* to ***"This provision shall be reviewed not later than October..."*** Mr. Smith seconded; the motion passed unanimously.

Mr. Day entertained a motion to take the changed ordinance to Public Hearing to be presented to the Selectmen for placement on the Town Warrant.

MOTION: Mr. Caron **MOVED** to take the Elderly Housing Article XII.B.3. with the proposed text to Public Hearing on Thursday, January 31 at 7:00 PM. Mrs. Belcher seconded; the motion passed unanimously.

Mr. Day reminded the Board they would need a quorum for this public hearing, as it was being held on a different date from the usual meeting date.

CONTINUED BOARD BUSINESS

Septic Setbacks. Chairman Day distributed a sheet that included three Zoning Ordinance articles referring to septic setbacks: Article VI – Wetlands Conservation District, Article VII – General Provisions, and Article IX – Lot Area and Yard Requirements. Also included on the sheet was the Building Inspector's suggestion for wording for the determination of distance for the septic setback. Mr. Day noted that this addition would actually constitute a Zoning Ordinance change and suggested the Board incorporate the Building Inspector's language into Zoning Article VII – General Provisions, paragraph D.6 at Town Meeting 2009. The language would also be incorporated into the SD/SPR regulations where appropriate. Mr. Donald stated that until that time, he would enforce the measurements for septic setbacks.

Regulations and Fees changes. A copy of the Selectmen's fee schedule had been distributed to Board members. Mr. Day explained that fees are sprinkled all throughout the ordinances and regulations, and that the goal was to remove these fees and add them to the Selectmen's fee schedule instead. This way they would be more up-to-date and could be changed when warranted without an ordinance change.

Trash Pick-Up Dilemma. Mr. Donald reported to the Board he had had to inform the owner of *"Frills and Furbelows"* that she could no longer have her trash picked up by the Town-contracted trash company. It seems that a disgruntled non-resident person had complained that businesses were getting their trash picked up which was in direct conflict with the contract the Town has with Waste Management. Several other places in Town were also named as having invalid pick-up, including the church. Mr. Day stated that since she was not a resident, she has no right to decide who has trash pick-up or not. Mrs. Belcher noted it was necessary to separate the message from the messenger; if it had been a resident relaying the same information, the Town would need to take note of what was reported. It appears that they are in direct conflict with the contract they made with Waste Management. Mr.

Morales asked in that case, how could they monitor what the home occupations were discarding in their regular trash that actually belonged to their “business”? Who is looking at what they are throwing out? Mrs. Belcher noted that as residents, they were entitled to throw out their trash. Businesses could be monitored more closely.

Mr. Day noted that this discussion was informative, but actually had nothing to do with the Planning Board. In reality, they were speaking about contract law. They were a civil society of laws, having chosen to be ruled by law. Mrs. Belcher was exactly correct; if East Kingston’s ordinances state X, Y and Z and we take a position that contradicts that, then we are wrong. We need to adhere to what the ordinance says. And the Selectmen and the Town have to adhere to what the contract with Waste Management says.

Planning and Zoning Conference. Mr. Day reminded Board members of the OEP Annual Spring Planning and Zoning Conference to be held on April 26. More information will be forthcoming as the date gets closer.

DOT Report – The DOT had sent a report to Mr. Day on the Newington-Dover Spaulding Turnpike proposed highway and bridge changes/development. This booklet will be filed in the library at the Selectmen’s office if anyone wants to review it.

CIP – Mr. Steltzer reported that there was still a ways to go on the CIP. There were some tables he was interested in including and he stated if anyone had suggestions of other tables to be included to contact him.

ADJOURNMENT:

MOTION: Dr. Marston **MOVED** the Planning Board adjourn. Mrs. Belcher seconded, and the motion carried unanimously at 8:00 pm.

Respectfully submitted,

Barbara A. White
Recording Secretary

J. Roby Day
Chairman

Minutes approved February 21, 2008.

Clarification to the December 2007 minutes is included in these minutes.
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