



PLANNING BOARD
TOWN OF EAST KINGSTON
New Hampshire

2010-2011
Ron Morales, Acting Chairman

MINUTES
Regular Meeting 20 January 2011
7:10 pm

AGENDA:

- ◆ **Call to Order**
- ◆ **Approval** December 16 minutes
- ◆ **Board Business**

CALL TO ORDER: The regular meeting of the East Kingston Planning Board was called to order at 7:10 pm.

ROLL CALL: Mrs. White called the roll.

Members: Mr. R. Morales and Mr. E Warren; Ex-officio Mr. D. Pendell (7:30). Dr. R. Marston was not in attendance.

Alternates: Mr. P. Gilligan. Mr. J. Cacciatore was not in attendance.

Advisors: RPC Planner Ms. Julie LaBranche and Building Inspector Mr. Ray Donald.

Acting Chairman Morales appointed Alternate Peter Gilligan as a voting member in Dr. Marston's absence.

Board Business

Resignation - Mr. Morales informed the Board that Mr. Sullivan had resigned from the Board due to personal reasons, effectively immediately. Mr. Donald relayed a message from Mr. Sullivan that he was most grateful to the Board for their support while he was Chairman and apologized for his quick departure. Mr. Pendell noted that although he and Mr. Sullivan had not always agreed on issues, he recognized those who volunteered their time to the Town and sincerely appreciated Mr. Sullivan's time and service.

Meetings - Due to the Chairman's resignation, Vice Chairman Morales will Chair the meetings until the Board elections in April.

Membership - With both Mr. Sullivan and Mr. Forrest resigning, there was a deficit in the membership of the Board. Mr. Gilligan had expressed an interest in becoming a regular member, and the members of the Board would be happy to welcome him.

MOTION: Mr. Warren **MOVED** to send a letter to the Selectmen recommending Mr. Gilligan be appointed a regular member. Mr. Morales seconded; the motion passed unanimously.

Mrs. White will send a letter of recommendation to the Selectmen to approve Mr. Gilligan as a regular member.

Minutes - Approval of the December 16 minutes. Mr. Morales noted that in the decision for Mr. Depanfilis, Mrs. White had not indicated how each member had voted (as per the Planning Board Rules and Regulations) as it was not a unanimous vote. That change will be made to the December minutes.

MOTION: Mr. Warren **MOVED** to approve the December 16 minutes as revised. Mr. Gilligan seconded; the motion passed unanimously.

Mr. Depanfilis' Conditions of Approval - There was discussion on whether or not the conditions of approval for Mr. Depanfilis could be refined as what was written in the December minutes and Conditions of Approval was vague in reference to the hours of operation on weekdays. The Board did not want there to be any problems for Mr. Depanfilis should he on occasion have operating hours during a weekday. The Board decided the conditions should be amended to read that Mr. Depanfilis would operate his business from 7:00 am - 9:00 pm, Monday through Sunday. Mrs. White will reissue the Conditions of Approval with that change, making sure a revised copy goes into the file and is sent to Mr. Depanfilis.

Tenant in Barn - Mr. Donald reported that that at the Selectmen's meeting that evening, he had brought up a complaint about trash blowing onto the lot adjoining Carmen's restaurant. As Code Enforcement Officer, he had spoken to the owner's of Carmen's Restaurant who denied that the trash belonged to them, and had reported it was from the tenant in the upper floor of the barn in the back of the restaurant.

Mr. Donald stated he remembered something about no tenants, and asked if Mrs. White could research that and bring anything she found to the Selectmen on Monday night. Mrs. White thought she remembered reading something about no tenants in the barn, and will see what she can find for the Selectmen's Monday meeting.

As far as anyone can remember, no one had ever come before the Board for living quarters in the barn.

Food Business - Mr. Morales noted an article in the newspaper regarding a women in East Kingston who had a food business in her home. He asked if she had come before the Planning Board for a home occupation; no one remembered her coming before the Board. Mr. Donald opined that since she was conducting cooking classes in other people's homes and at an outside company, and all she was doing was receiving phones calls at home, he would have a hard time categorizing that as a home occupation.

Membership - Mr. Pendell noted that the resignation of both Mr. Forrest and Mr. Sullivan had left a large hole in the membership of the Planning Board. The Board discussed methods to inform the residents that they needed people to volunteer to be on the Board, both regular members and alternates. Direct letters to the elderly communities, perhaps asking them to put something in their newsletters was discussed. Also a blurb in the newspaper and a notice at the Library were options considered. Mr. Morales noted that if people became alternates before becoming regular members, they would not need to jump in quite so quickly and could get some experience under their belt.

Mr. Gilligan noted that since things were relatively slow at the present time, it would be a very beneficial time for someone to come on board and observe how things were done. Mr. Morales also noted that people did not need to be experienced; they would learn as they went along. As long as they were intelligent, rational people who could make decisions based on fact, they would qualify.

Mr. Pendell suggested the best way to get the word out to people was to put together a letter to the citizens and include it as an insert in the Town Report; the Board agreed this was the way to make sure the information got out to everyone in Town. Mr. Morales and Mrs. White will put together a letter for inclusion in the Town Report.

MOTION: Mr. Pendell **MOVED** for Mr. Morales and Mrs. White to put together a letter of solicitation for membership on the Planning Board for inclusion in the Annual Report. Mr. Gilligan seconded; the motion passed unanimously.

Motion Question - Mrs. White asked about a motion Mr. Dworman made. It was to add the sentence about condo associations to the home occupation ordinance for their prior approval. She wanted to know if they needed to rescind that motion since they had not made the change in the ordinance and were going to work on it in the coming year. Mr. Morales opined the motion had been to include that line on the home occupation checklist, which had been done, and did not need to be rescinded; the rest of the Board agreed.

Home Occupations - Mrs. White had handed out home occupation information from adjoining towns, with the suggestion that the members review it and come back to the Board next month with their proposals on how to change their ordinance.

Mr. Warren noted it was interesting that the list of prohibited home occupations in Kingston was part of the list of allowed home occupations in Kensington.

Mrs. White opined the Plaistow Home Occupation ordinance had excellent wording regarding permission from condo associations and thought it would be good to include in their ordinance. She read it to the board members.

Any applicant who resides in a condominium unit, in addition to obtaining permission from the owner if the applicant is not the owner, must submit, at the time of application, written permission from the governing condominium association or Board of Directors.

Mrs. White suggested they could amend the wording to say "anyone who lives in housing governed by an association" in place of "condominium unit". Mr. Pendell asked if that wording could be added to the checklist as read, as they could not change the ordinance yet.

MOTION: Mr. Morales **MOVED** for Mrs. White to add the preceding statement to the Home Occupation application. Mr. Warren seconded; the motion passed unanimously.

Mrs. White noted that in Newton's home occupation ordinance, their introductory statement to the list of home occupations stated "these are examples of acceptable home occupations". This type of statement would cover the fact that each and every allowed home occupation was not expressly stated.

Forms in Book - Mrs. White made the suggestion that when the Board reviewed the home occupation ordinance and made their other changes to ordinances this coming year, they might want to remove all the forms that are now included as part of the ordinance book. Although they are not ordinances and do not need to be approved by the residents for changes, it would eliminate the chance of anyone having an outdated form. The Board agreed it would be good to remove the forms from the book.

Checklist Question - Mrs. White referred the Board to the *Project of Regional Impact Checklist*. She inquired if needed to be included on any of their checklists as a reminder. Ms. LaBranche stated they would not need to include it on our checklists, but it should be reviewed if applicable, such as in the case of a large development which could even affect shared community services. There is a formal process they would need to follow should they have a certain number of items checked off, and one of the things it did was allow the affected communities and the RPC to become abutters.

Ms. LaBranche suggested Glenn Greenwood come and speak to the Board for 30-45 minutes about how the process works so they are prepared should it come up. Mr. Greenwood is the head of that committee for the RPC and knows it inside and out. Mr. Morales suggested it would be good to plan Mr. Greenwood for a regular meeting so members of the community could attend also. The February agenda was still open, so that might be a good time for him to come. Ms. LaBranche will check on that and get back to us.

Commercial District Question- Mr. Pendell inquired, since he had missed several meetings, if there had been any final decision on their discussions regarding extending the commercial district. Mr. Morales noted that from the feedback from the citizens at the mini-charette, they were not too pleased with that going forward. They asked about farming and keeping the town rural, so that was when the Board started to focus on the agricultural commission, which is on the warrant this year.

New Requirements re: Waivers - Ms. LaBranche passed out RSA information in regard to the new requirements pertaining to the granting of waivers by the Board for Subdivisions/Site Plans. She referred to section I (n) 1 & 2, which would be the same for both Site Plans and Subdivision of Land.

The new verbiage reads as follows:

(n) Include provision for waiver of any portion of the regulations,. The basis for any waiver granted by the planning board shall be recorded in the minutes of the board. The Planning Board may only grant a waiver if the Board finds, by majority vote, that:

- (1) Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations; or*
- (2) Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.*

The preceding statements would need to be read and voted on for each waiver requested.

The majority of the Board would need to find in favor for both #1 and #2 for the waiver to be granted. As reviewed at the last Planning Board meeting, in the case of a Board of 3 members, all three members would need to vote in the affirmative. With a full Board of 5 members, a majority would suffice.

Ms. LaBranche noted that the applicant would need to be very specific in what they were asking a waiver for. It could be for some unusual component of the land or protection of an environmental feature, but at no time could economic reasons be considered a rationale.

Ms. LaBranche suggested she proposed the language and procedures needed to be followed to adhere to this change for the regulations. Ms. LaBranche will review both the Site Plan and Subdivision regulations to make sure the language and RSAs referred to are current. She wanted to solicit any input from the Board for both these sections of the regulations also, in the event there were any other changes they thought needed to be made.

Mr. Donald suggested that specific reference to this RSA be referred to in the regulations as well, as there may be an entirely different Board when this may come up in the future. Ms. LaBranche agreed and will do so.

Ms. LaBranche suggested she and Mrs. White would work on a script for when this instance should come up before the Board. Ms. LaBranche will also put together a checklist for the Board for other procedures.

Handouts to the Board

- Home Occupation Information
- Chapter 674

Correspondence

- ▶ FYI - DES Septic System request Winslow Drive
- ▶ Plan NH invitation

ADJOURNMENT

MOTION: Mr. Warren **MOVED** the Planning Board adjourn. Mr. Pendell seconded. The motion passed unanimously.

Mr. Morales closed the meeting at 9:00 pm.

Respectfully submitted,

Barbara White

Barbara A. White
Recording Secretary

Ronald Morales
Acting Chairman

Minutes approved February 17, 2011