



**PLANNING BOARD  
TOWN OF EAST KINGSTON  
New Hampshire**

2020-2021

Joshua Bath, *Chairman*  
Tim Allen, *Vice Chairman*

**MINUTES**

Zoom Meeting – January 21, 2021  
7:00 pm

The Town of East Kingston Planning Board met remotely through a video conference (Zoom) meeting, Thursday, January 21, 2021 at 7:00 PM. Due to COVID-19, and pursuant with NH Emergency Orders, no public meeting location was utilized.

**AGENDA:**

**Public Hearing** – Application for Lot Line Adjustment and Subdivision, 82 East Road, East Kingston, NH (MBL 14-04-01) and 102 South Road, Kensington, NH (Map 4 Lot 43) and 104 South Road, Kensington – Hog Hill Preserve, LLC (Map 4 Lot 41)

**Discussion** with Daniel Stacey re: future activities at 35 South Road, East Kingston.

**Public Hearing** for Home Occupation Application for Peter Manning, 57 Depot Road (MBL), White Mountain Scientific

**Discussion** with Tim Corwin, MacDonald Law, prospective tenant at 14 Powwow River Road, Suite 2

**Public Hearing** – Application for Dennis and Karen Quintal, 35 Main Street, East Kingston (MBL 08-02-08) for a 2-lot subdivision (Addyson Lane Subdivision)

**Members Present:** Chairman Joshua Bath, Vice Chairman Tim Allen, Dr. Robert Marston, Bill Caswell, Emily Anderson and Ex-Officio Bob Nigrello.

**Advisors Present:** RPC Senior Planner Julie LaBranche

**Also present:** Resident Mr. Dan Stacey, Home Occupation applicant Peter Manning, Prospective Tenant Corey MacDonald, Subdivision Applicant Dennis Quintal, and several East Kingston residents and abutters.

Chairman Bath made a statement regarding video bombing:

*If tonight's meeting is interrupted by outside sources, this meeting will be immediately terminated and public hearings will be continued and rescheduled to another date and time to be announced and published. We ask for understanding and patience for any technical difficulties that may occur during the meeting.*

Vice Chairman Allen noted if there are problems during the meeting connecting, to email him at [timallenekplanningboard@gmail.com](mailto:timallenekplanningboard@gmail.com) or call him at the cell number he is providing so he would be informed that someone could not connect and either provide guidance to connecting or terminate the meeting as it a requirement the meeting be available to the public.

**CALL TO ORDER:** This meeting of the East Kingston Planning Board was called to order at 7:00 pm by Chairman Bath.

**Minutes:**

Mr. Bath asked for a **MOTION** to approve the December 17 minutes.

Mr. Allen had a few suggested edits to the December minutes..

Mr. Caswell **MOVED** to approve the December minutes with the noted amendments; second by Mr. Allen. **Roll call vote** - Mr. Bath – aye, Mr. Allen – aye, Mr. Caswell, Dr. Marston - aye, Mr. Nigrello – aye. Vote is unanimous.

**Public Hearing for a Lot Line Adjustment and Subdivision, 82 East Road, East Kingston, NH (MBL 14-04-01) and 102 South Road, Kensington, NH (Map 4 Lot 43) and 104 South Road, Kensington – Hog Hill Preserve, LLC (Map 4 Lot 41)**

Mr. Bath noted the applicant had withdrawn their application and no public hearing will take place tonight.

**Discussion with Daniel Stacey re: future activities at 35 South Road, East Kingston.**

Mr. Bath welcomed Mr. Stacey and asked him to describe what he would like to do with his property at 35 South Road.

Mr. Stacey thanked the board for meeting with him tonight and is aware there have been concerns about in-house permits, commercial operations being run from people’s properties, and multiple commercial vehicles being parked at people’s houses, etc. in the town of East Kingston. Mr. Stacey has addressed all the matters with the elementary school in regards to the property line and has erected a fence to separate the properties. Mr. Stacey provided a current conditions plan for his property for reference.

He is here today to talk about using his property as a tree farm and for other agricultural purposes which he is zoned for. He is bringing this to the board’s attention to avoid any concerns that may arise over the increased activity which will be taking place on his property.

Now that the restoration to his fields have been completed, he is planning on utilizing his property for the growing and storing of trees, shrubs, and different plants along with processing timber for firewood and storing of forest products. He will be selling these products wholesale; the public will not be having access to his property.

He is not speaking about a large piece of property; his property is just under 3 acres. He wants to be forthright and acknowledge he will be selling these items that will have been grown and stored on his property along with the parking of any equipment that will be needed during this process.

He clarified that his tree service was not coming to his property nor being operated from his house in East Kingston; his business is and always has been and will remain in Atkinson, NH.

Mr. Bath reviewed Mr. Stacey was intending on growing trees and shrubs and processing wood and forest products. And his operation would be wholesale and not retail, therefore the public would not be coming to his property.

It was Mr. Bath’s understanding that if you grow trees and shrubs on your property, you can sell those items since they are grown on your property. He asked Mr. Stacey what type of forest products he was intending on selling and would they be shipped onto the property.

Mr. Stacey explained he would be storing firewood, as he has in the past, and processing logs that will be coming in and going out. There would not be tractor trailers coming in and out. Mr. Bath noted that if Mr. Stacey

brought logs into his property, he could not sell them; they could be only for home consumption/personal use. Mr. Stacey disagreed and asked to be shown where it said that.

Mr. Allen noted Mr. Stacey's residence is located in a residential/agricultural zone in the ordinance and that definition comes directly from the state. RSA b21:34A clearly lays out the type of things that qualify as farm and agriculture.

Discussion ensued regarding New Hampshire Revised Statutes 21:34-a – Farm, Agriculture, Farming and what was allowed under the statute. It was explained that as Mr. Stacey was planning on bringing in logs from elsewhere to process into firewood and not utilizing timber originating on his property, it was in fact creating a commercial business which was not allowed. If it was his own wood it would fall under the statute; since it would be coming from elsewhere it would not. The statute states that at least 35% of the product would need to come from his property.

Mr. Stacey maintained his property is designated as being in a residential/agricultural/forestry zone and as such, his plan for processing firewood is an occupation that can be done on the property. It was noted that forestry was not inclusive in the designations of zones in East Kingston.

Mr. Stacey said he was told that the town does not have specifics and therefore it results back to the state (definition). And the state has East Kingston as an agricultural/residential/forestry.

Julie noted that the state does not dictate zoning; the towns do it. They do follow the state statute which permits certain items which fall under agricultural/farming. And bringing product (logs) to process (as firewood) would not fall under the definition; it is a commercial operation.

Mr. Stacey said he paid an engineer to go over his property and note #3 on the plan states Lot 14-4-5 is located within the residential-agricultural-forestry zone. He is not sure why the forestry designation keeps getting dropped.

Mr. Allen noted that forestry is allowed in Mr. Stacey's zone, so he could utilize it as a woodlot and process his own trees and sell them for firewood. Unfortunately, in Mr. Stacey's case, there are not many trees left on the property.

Mr. Bath asked if mulch was included in that definition; Mr. Allen noted it would fall under the 35% of the product would need to originate from the property.

Ms. Andersen noted that 21.34.b-4 does include forestry or lumbering operations.

21:34.b

(b) Any practice or activity on the farm incident to, ancillary to, or in conjunction with such farming operations, including, but not necessarily restricted to:

- (1) Preparation for market, delivery to storage or to market, or to carriers for transportation to market of any products or materials from the farm.
- (2) The transportation to the farm of supplies and materials.
- (3) The transportation of farm workers.
- (4) Forestry or lumbering operations.

It was again noted that if the trees were coming from Mr. Stacey's property, he would be able to process them.

Mr. Nigrello noted with the exception of the Light Industrial and Commercial Zones, the rest of the town was designated residential/agricultural. There are a couple of logging businesses in various sections of the town but those are grandfathered non-conforming businesses that were in operation before zoning went into effect in 1986 and therefore allowed to keep operating.

Mr. Stacey's position is that he is allowed to bring in logs to process and will do more research. The planning board will also do some more research on the subject.

Mr. Caswell asked about storing landscaping materials for jobs conducted elsewhere. Ms. LaBranche noted that would be considered commercial and not be allowed in a residential zone.

Mr. Nigrello asked Mr. Stacey where he would be selling his product if he was wholesaling it? Mr. Stacey said he had not determined that yet, but no one would be coming to his house to pick up anything. Ms. LaBranche asked what types of trees and shrubs Mr. Stacey was intending on starting with – seedlings or mature stock? Mr. Stacey answered he would be growing them for a year or two before selling them.

Mr. Bath opened the floor for public comments; there being none he closed the floor.

Mr. Stacey asked to be provided the reference numbers the board was referring to during the discussion. He was directed to the ordinance on the town website – Article 3B and RSA 21:34-A.

Both board and Mr. Stacey will do further research and Mr. Stacey will come back in February for more discussion.

**Public Hearing for Home Occupation Application for Peter Manning, 57 Depot Road (MBL), White Mountain Scientific**

Mr. Bath invited Mr. Manning to explain his proposal for home occupation (H/O) to the board.

Mr. Manning explained he is the editor of an on-line publication called The Firearm Blog. He produces news, reviews and other types of articles in written and video form for a world audience. Part of those activities involve the reviewing of firearms themselves. Up until this point, he has been using the services of another Federal Firearms Licensee (FFL) which incurs significant costs and increase's the complexity of logistics. This requires travel, paperwork and transfer fees. He figured it was time to obtain his own FFL license, which will streamline the process and save on overhead. That is the reason for his H/O application.

Mr. Bath reviewed the application form with the board. Mr. Manning's description states technical writing, editorial copy and photography. Some very light manufacturing with basic hand tools on a sporadic basis for a few hours during normal business times. No retail sales, no commercial sales and no office or business hours. Standard common carrier package deliveries and no vehicle will be required. There will be no signs or advertising.

Checklist items include: H/O will be conducted by the homeowner in the residence, not more than one commercial vehicle, not more than 25% of the gross floor area utilized, no employees other than the resident, and adheres to Zoning Article XVI-C. Standards #5 & 6.

Mr. Bath asked for board questions.

Mr. Allen noted it would qualify as an invisible home occupation. He noted it appeared Mr. Manning was looking for a business address and asked if the business would generate any additional shooting. Mr. Manning stated it would not. He noted 99.9% of the business consisted of photography, assembly and disassembly (of firearms), and writing. Mr. Allen asked if he was intending on having any large amounts of ammunition; Mr. Manning replied he was not.

Ms. LaBranche asked is there would be any testing of firearms. Mr. Manning noted there would be assembly function testing, and parts associated with the firearms; there would be no shooting over what is allowed on NH property.

Mr. Allen asked when Mr. Manning says manufacturing and machining, he is assuming he is doing general modifications to firearms (i.e., new slides, etc.) Mr. Manning explained that as per federal law, even assembly of certain parts can be considered manufacturing. In essence it is rudimentary manufacturing.

As the board had no more question; Mr. Bath opened the floor for public comments. There being none he closed the floor.

Mr. Bath as for a **MOTION** to recommend Mr. Manning's Home occupation.

Mr. Allen **MOVED** to recommend the home occupation for Mr. Peter Manning, 57 Depot Road (MBL), dba White Mountain Scientific to the Selectmen as an invisible home occupation; second by Mr. Caswell. **Roll call vote** - Mr. Bath – aye, Mr. Allen – aye, Mr. Caswell, Dr. Marston - aye, Mr. Nigrello – aye. Vote is unanimous.

Mrs. White will send a letter of recommendation to the Selectmen. She explained the process to Mr. Manning. Once the Selectmen approve your Home Occupation, you will be contacted by their Office. The fee is \$25 per year for an invisible home occupation and you will receive a bill for that amount from them. You will then be issued a permit which is good for a year. You will need to renew your home occupation on a yearly basis by the deadline noted (they will contact you), or you would need to reapply and go through the process again.

She also noted the Selectmen's Ofc may receive a notification from the ATF inquiring about Mr. Manning's home occupation to make sure it is allowed and has been approved.

Mr. Bath closed this public hearing. Mr. Manning thanked the board for their time and recommendation.

**Discussion** with Corey MacDonald, MacDonald Law, prospective tenant at 14 Powwow River Road, Suite 2.

Mr. MacDonald explained he has been an attorney for approximately 15 years. He had an office in Portsmouth and recently relocated to the Powwow River Road location. Mr. MacDonald Law operates two entities – MacDonald Law, focusing primarily on complex divorce law and other family law services and Black Lion Services, focusing primarily on international business law. He is also general legal counsel for USA Rugby for the national Olympic Teams which requires spending time in Colorado.

His staff consists of himself, a paralegal, and two 1099 attorneys who mostly work from home. On average they see a client every other day or two with very little traffic.

Mr. Bath asked if Attorney MacDonald would be adding any additional signage other than what will be on the main marquee. Atty. MacDonald asked as he is the end unit, if he would be allowed to place a small sign above his door projecting outward so clients can find his office. Mr. Bath noted that as per the ordinance he would be allowed to have an 8 square foot sign on the building. Attorney MacDonald noted it would be much smaller than 8 square feet; just a small sign over the door.

Ms. LaBranche noted the property owner should be contacted to provide an updated list of tenants and to provide an updated water flow chart. Mrs. White had checked and the previous tenant also had 4 people so there would not be any additional people to add to the water usage chart.

As the board had no more question; Mr. Bath opened the floor for public comments. There being none he closed the floor.

Mr. Bath closed the discussion with Atty. MacDonald.

**Public Hearing — Application for Dennis and Karen Quintal, 35 Main Street, East Kingston (MBL 08-02-08) for a 2-lot subdivision (Addyson Lane Subdivision)**

Mr. Bath invited Mr. Quintal to present his subdivision proposal. Mr. Quintal noted it was a 38-acre parcel and shared a copy of the tax map to show the location of the property as MBL 08-02-08.

He explained that the B&M Railroad bisected through the property in the late 1800's. Basically, it is a landlocked piece of property that was in existence when the Maplevale subdivision was constructed. When the subdivision went in, lots were created and at that time the Quintals had asked the Planning Board to provide an access to the 38-acre parcel. The Jones & Beach plan that was recorded at the Registry of Deeds shows a ROW (for future road) from Maplevale Road to the property. The ROW is 51' wide.

Mr. Quintal also presented his plan which shows where his property is located adjacent to Maplevale Road. He has included a title block, a locus map, a list of abutting properties subdivisions and the ROW. He explained his intent was to create two buildable lots. He has identified the edge of wetlands which drains towards the RR and across. He has done a perimeter survey and identified where he would like to subdivide the property into two lots – one lot with 13.43 acres and a second lot with 25.57 acres.

A town requirement for a dead-end road is to have a cul-de-sac. Creating frontage for two lots on a required cul-de-sac would mean filling in large portion of wetlands area. Mr. Quintal noted he researched an alternative for filling such a large area of wetlands while still creating frontage for the two lots. He ascertained access to the property from the ROW could be from a private driveway. He has suggested creating a “T” intersection in place of a cul-de-sac. This type of arrangement would provide frontage for the lots, would still have a turnaround for emergency vehicles, and require much less of an impact on the existing wetlands. The original ROW would be extended into the front section of the Quintal property before branching off into a “T”; he has named that Addyson Lane. The “T” intersection he is suggesting would have 100’ on each of two sides for each lot, giving 200’ of frontage to each lot.

This would afford compliance with the area and frontage requirements for each of the lots. He has had test pits conducted, and areas for septic, well and upland is depicted for each of the lots. This is shown on the Plan Sheet 1. The topographic plan shows all test pit information and abutters.

The property is woodland with a 3-to-4-acre open field. There is a farm crossing of the railroad tracks shown which is for farm use only and cannot be used for access otherwise as per the deed from the railroad. This access makes this property unique as it can only be used for farming access.

The topographical shows the contours of the grade coming down to the edge of pavement on Maplevale road with 2’ elevations and a 4% grade. There would be swales on each side of the road to take care of any stormwater drainage, and treatment swales on each lot. Sheet PP1 shows stationing and cross-sections of the road every 50’. It shows the width of the road, the width of the gravel and the swales. It also shows the profile of the slope 4.5%. There would be a high point where the two roads meet and the grades would slope toward the north and south at 5% for a short distance.

As this would be a common driveway, Mr. Quintal has asked for some waivers.

**Waiver 1** – this is a request for a waiver for approval of the “T” intersection in place of a cul-de-sac intersection (subdivision regulation VII.D). As there is an existing major wetlands complex located a short distance onto the property, construction of a cul-de-sac would impact a significant area of that wetland. The “T” type intersection would not impact the wetland, create lot frontage and still provide a vehicle turnaround. As the subdivision is for two large single-family lots, the proposed access ROW would be plowed and maintained by the lot owners and not the town.

**Waiver 2** – this is a waiver for road construction (subdivision regulation XV-D.1). He is proposing 22’ of gravel as opposed to the requirement of 34’ shoulder to shoulder as it would be maintained by the lot owners and not the town highway department. The proposed access ROW would be plowed and maintained by the lot owners and not the town.

**Waiver 3** – this is a waiver for the surface requirements of the road (subdivision regulation XV-F.1. and F.2). He is asking for width of 20’ plus 2’ for a total of 22’ (town requirements for gravel is 24’) and for the finished roadway surface he is proposing 3” of crushed asphalt (town requirement is 2.5” type 1 bituminous concrete).

In the case of all the waivers requested, granting them would not be detrimental to the public safety, health or welfare of other properties or public interest not will it vary the provisions of the Zoning Ordinance, Master Plan or Official Maps. These waivers would substantially secure the objectives, standards and requirements of these regulation as the specific circumstances warrant granting.

He realizes an agreement would need to be made with the town to accept the requested waivers, and acknowledges that if the waivers were granted the roadway would not meet town standards for a class 5 road. He was hoping for agreement from the town to be able to apply for building permits for either of the two lots.

Mr. Quintal stated he realizes the services of an independent engineer appointed by the town would be necessary and has no problem establishing an escrow account for any expenditures.

He has no plans for additional lots at this time, wants to keep the conservation land the way it is and continue to maintain the wildlife corridor.

Mr. Bath asked who owned Addyson Lane? Mr. Quintal explained the town owns the ROW. The bearings and distances go from Maplevale Road to the Quintal property. It was deeded to the town when Maplevale Road was constructed.

Mr. Quintal was going to cut some trees and do a timber harvest on the property to clear an area for a single-family house. He met with the selectmen and asked for permission to access the property via the ROW. Normally a cul-de-sac would be constructed but because of the natural features (the wetlands) that would constitute filling in the wetlands. The proposed "T" intersection would eliminate the necessity of filling in the wetlands. There would be an extensor of Addyson Lane onto the property and then the "T" intersection would branch north and south to the individual lots.

Mr. Bath asked if it was going to be a town road in the future, why would we not want Addyson Road to meet town standards? If building the road to town standards is not done initially, who would be responsible for bringing it up to town standards in the future? Mr. Quintal noted it would be the responsibility of the applicant (property owner) at that time if they wanted to pursue further development.

Mr. Allen asked once the two parcels were separated, regardless of configuration, each of the properties will have 200' of frontage. As such, he was unsure how either could be further developed. Mr. Quintal noted another "T" type intersection would need to be constructed off the accessway. The length of the ROW and the "T" intersection would only leave approximately 500' for further development of any future road.

Mr. Caswell asked if the waivers being requested due to hardship? Or to avoid impact on the wetlands?

Mr. Quintal noted he thought it was better to not put impervious surface in place if it was not necessary. Impervious surface impacts groundwater and natural features. He ascertained 24' of pavement was not necessary for development for only two houses. He feels it is a reasonable request as it minimizes the impervious surface and would be in the best interest of the environment. If the board does not agree and does not grant the waivers, everything will be built to town standards.

Dr. Marston asked who owned the property on the other side of the Quintal property? Mr. Quintal noted it was the Smith property, Brentwood Commons and the Bodwell property.

Mr. Bath asked about stormwater management and erosion/sediment control plans. Mr. Quintal explained as the drainage comes down from Maplevale, there is not much watershed. At the present time it runs across the abutter's property. With the construction of Addyson Lane, it would be intercepted and brought down into a swale along the roadway, and there would be a 100' treatment swale at each side of Addyson Lane to the "T".

Runoff from the road would be captured with a swale along the sides of the road. He showed the board the specifics of the treatment swale on page PP2. The swale would be a foot high and would be adequate to treat the runoff.

Ms. Andersen commented on Mr. Quintal's design and appreciated the minimization of impact to the wetlands. She asked as there would be minimal impact to the wetlands with the "T" design, what mitigation would be done. Mr. Quintal noted if the "T" intersection was approved, there would be no impact to the wetlands. If not, there could be impacts to the wetlands and the installation of a short retaining wall. The slopes from the roadway

would be on uplands and the existing woods road has a small culvert. If the town approves the subdivision, he would be applying to the DES to enlarge the culvert.

Mr. Nigrello appreciated the complete and well thought out proposal. He also appreciated the detail on the plans regarding the waivers. In each of the waivers it states "subdivision is for two large single-family lots." How would the plowing of the roads be handled by the property owners? Would there be something included in the deeds that they are responsible for plowing and not the town? Mr. Quintal noted if it was a condition of approval it would be included on the deeds. The "T" intersection (the rectangle shown on the plan) would be deeded to the town. Mr. Nigrello clarified that if at some point it becomes a town road, the town's responsibility would end at the "T" intersection as the rest would be private driveways. Mr. Quintal noted that was correct.

Mr. Caswell asked if the Addyson Lane ROW is 50' with a proposed 22' wide road and 4' of swale on either side, how much of the 50' would be taken up by the road and the swale? Mr. Quintal answered almost all of the 50'. The gravel in the swale is part of the maintenance of the swale. The swale is wide enough so if in the future it is decided to build the ROW to town specifications, at that time gravel could be added out to the required width of 24'. Mr. Caswell opined for proper runoff management the actual roadway surface needed to be a little narrower. Mr. Quintal noted he wished the swales to be established with vegetation to properly function.

Mr. Allen agreed the level of detail of Mr. Quintal's plan is fantastic. And he appreciates the thought that they would be large lots and there would be a small footprint on the environment. If at the end of Addyson Lane there was a standard 75' radius cul-de-sac turnaround, how many square feet of wetland would be impacted? Mr. Quintal was not sure as he had not calculated that number, but opined it could be approximately 150'.

Mr. Allen noted with this "T" intersection, the Fire Chief would need to review it to see if there was adequate turnaround area for his equipment. Is there an engineering standard for this type of intersection that you have applied to ascertain there is adequate turnaround space? Mr. Quintal noted he had met with the Fire Chief regarding the intersection, and was not asked to make any changes to the plan.

Mr. Allen also appreciated the lack of impermeable surface from an environmental standpoint. Addyson Lane will be on land owned by the town, and once the "T" section is transferred to the town, who will be responsible for maintenance? How will you ensure the owners of the two properties will be responsible for the costs to maintain the gravel and the town would not incur those costs? Mr. Quintal noted it would be part of the condition of approval, and part of an agreement that would be written and recorded. And the property owners would need to comply as per a deeded agreement. He noted a common driveway such as this would not receive the volume of traffic like Maplevale Road.

Mr. Allen asked if Mr. Quintal had gone to DES? Mr. Quintal reviewed that when lots are 5 acres or more, it is not necessary to get subdivision approval from the state.

Ms. LaBranche noted on the deed for Maplevale Road and the 50' ROW, it only referred to as a 50' ROW for future use and not a named established road. Any use of the land for a common driveway needs to have approval from the Selectmen; that is something the Planning Board cannot approve. Mr. Quintal had suggested the name Addyson Lane. He has already checked with the Fire Chief and 911 and this name would be acceptable to them, but the state Fire Marshall would have final input as to the name of the road.

RSA 674:41 states because this has never been a dedicated street or an improved roadway, in order for the town to allow you to use this for your subdivision, it would need selectmen approval. And the square in the "T" intersection would also need to be deeded to the town to become part of the new street and have Selectmen approval. There would need to be input from the planning board and a reviewing engineer. It would need to be separated from Maplevale and Addyson Lane made a separate piece of land with deeded restrictions for each lot explaining the specific restrictions and owner maintenance. Ms. LaBranche will list everything needing to be included for Planning Board and Selectmen reference. This will ensure the town is protected from liability.

Mr. Allen asked if the Selectmen would need to decide if they approve or disapprove Mr. Quintal's proposal and grant an easement for use across the ROW before the planning board moves forward?



Also, from the edge of Mr. Quintal's property towards the "T" intersection, would that fall on the Planning Board to decide from that point on as it is part of Mr. Quintal's subdivision? Can they be run concurrently?

Ms. LaBranche noted the external engineer would most likely want to weigh in on that and the stormwater management system would also need to be included, and any easements associated with the project. Any deed and easement approval would need to happen at the Selectmen level. She noted the planning board should be the final part of the process after the Selectmen.

For clarity, Mr. Allen noted the coordination of an approval between Mr. Quintal and the Selectmen needs to be closely matched with the planning board. Hypothetically, for example, the Selectmen and Mr. Quintal agree on an arrangement for his access over Addyson Lane, but the planning board then said but we don't want to use crushed asphalt, we want pavement. Then you would have a gravel ROW leading to a paved hammerhead. Unless we talk through all the waivers first before Mr. Quintal goes to the Selectmen.

Mr. Quintal said it would be helpful for him if the planning board discussed the waivers tonight so he could get a feeling about how they think of his plan. If there is negative feedback, he would like to know now so he can change his plan. He realizes the plan will need to be reviewed by someone else and the hearing continued, and hopefully over the next month or two the board could think about how they feel about the waivers if they are still in place after speaking to the Selectmen. Ms. LaBranche agreed it would be good to discuss they waivers and noted there would also need to be a maintenance plan for the stormwater systems and easements for the swales.

Mr. Bath opened the floor to abutters.

***Mrs. Emily Darby, 37 Maplevale Road*** – she noted there are a lot of trees on Mr. Quintal's land where it abuts her property. Could whomever purchased the property clear-cut all the trees to the property line? *Mr. Quintal explained he mows the field one a year or so, cuts some trees and has no intention of clear-cutting the property.* Mrs. Darby noted she knows Mr. Quintal's maintenance of the property is environmentally friendly, but was wondering about the next owner. *Mr. Quintal answered he would like to think the next property owner would maintain a buffer between that parcel and the Darbys, but as there is no ordinance preventing it, they could clear-cut to the property if they chose to.* Mrs. Darby asked what the town setback was if the new owners decided to move the house to a different location on the property than where Mr. Quintal had indicated. *Mr. Quintal answered the front setback is 30' and side and rear setbacks are 25'.* Also, could the new owner change the location of the driveway and the building from what is pictured on Mr. Quintal's plan? *Mr. Quintal noted anyone who purchased the property could build within the setbacks he stated from the ordinance. They could build it 25' from the property line if they chose.*

***Dan Guilmette, 29 Main Street*** – Mr. Guilmette noted they support Mr. Quintal's plan. It is good use of the land and very conservation-minded, and good for then town as there are only two proposed lots which maximizes the use of the land and respects the conservation part of it. They don't want a 10-lot subdivision.

There being no further public comment, Mr. Bath closed the floor to abutters.

The Board reviewed the waivers. Mr. Bath reminded the board there were 4 points to consider in granting a waiver.

The Board shall not approve any waiver(s) unless a majority of those present and voting shall find that all of the following apply:

1. The granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other property and will promote the public interest.
2. The waiver will not, in any manner, vary the provisions of the East Kingston Zoning Ordinance, Master Plan or Official Maps.
3. Such waiver(s) will substantially secure the objectives, standards and requirements of these regulations.
4. A particular and identifiable hardship exists or a specific circumstance warrants the granting of a waiver.

**Waiver 1 – this is a request for a waiver for approval of the “T” intersection in place of a cul-de-sac intersection (subdivision regulation VII.D).**

**Mr. Bath** has seen hammerheads in various circumstances, and he likes the fact that Mr. Quintal is being sensitive and not encroaching on the wetlands with his proposal. His only problem with the hammerhead is if it ever becomes a town road, he has concerns with town plowing ending at someone’s driveway. It appears the only place for the snow to go would be the stormwater swales. He agrees it would not be detrimental to the public safety, health or welfare of other properties or public interest. Mr. Bath opines the waiver request meets the ordinance criteria.

**Mr. Allen** noted in thinking about the ordinance in regard to public safety, the ability for fire apparatus access, and the requirement to ensure new subdivisions are harmonious with the overall esthetics, and character of the town, he appreciates a subdivision with large lots, with lots of open space and lack of pavement. He opined it fits in East Kingston. He feels the lack of impact to the wetlands with the proposed hammerhead “T” intersection is a good thing in comparison to filling in hundreds of square feet of wetland. It is a great conservation-minded solution. His concerns would be functionality for safety equipment, where would the snow go, and can the shape be changed to a halfmoon without creating significant wetland impacts.

**Mr. Caswell** feels this waiver make sense as it minimizes environmental impact. **Dr. Marston** agrees the “T” intersection makes a lot of sense (as opposed to a traditional cul-de-sac). **Ms. Andersen** appreciates the creative design which minimizes the wetland impact.

**Mr. Nigrello** is fine with the “T shape, but wants it to be ensured that the owners of the property have in their deed that they are responsible for the road until such a time that the town decides to accept it as a town road. Mr. Bath noted that could be a condition of approval and put into the deeds. Mr. Nigrello noted the waiver request stated that any further development of the property will require conformance with this regulation at that time the road will be taken over and maintained by the Town. Would that mean then the owner would then need to put in a cul-de-sac and/or get another waiver? Ms. LaBranche opined that maybe that should not be included in the waiver in case the regulations change.

**Ms. LaBranche** noted as the town is the owner of the ROW, part of the Board of Selectmen’s process for accepting the conditions would be granting the property owners an easement to use the ROW in an appropriate manner, with the maintenance being the lot owner’s responsibility.

**Mr. Allen** asked if Mr. Quintal could maximize the “T” shape with a half-moon for greater turnaround ability before the next meeting so the board could see what that looked like and what the wetland impact would be. Mr. Quintal noted he was taking the comments by the board into consideration for changes, and will also look at placement of snow on the plan that would not constitute changing the property lines.

**Mr. Bath** asked if plowing snow directly into the wetlands would cause any problems. Mr. Quintal noted that since it would not be sanded or salted, there would be no problem plowing the snow into the wetlands. That being said, the snow could be plowed onto the sides of the road and not into the wetlands.

**Waiver 2 – this is request for a waiver for road construction proposing 22’ of gravel as opposed to the requirement of 34’ shoulder to shoulder (subdivision regulation XV-D.1).**

**Mr. Bath** noted this would be 22’ plus the 1’ of gravel on either side. As this would be for access for two lots, he has no issue with the narrower width and believes it is adequate for meeting a shared driveway.

**Dr. Marston** agreed the width was adequate for 2 lots.

**Mr. Allen** agreed it would be adequate for 2 houses, as long as it was established the homeowners would maintain it (no town maintenance). He expressed concern if in the future it might need to be brought up to town standards for acceptance by the town, but noted that would be for the town to decide if and when that happened. He suggested 20’ of paved road at the entrance where Addyson Lane meets Maplevale Road to eliminate the

possibility of crushed asphalt being brought onto Maplevale Road. **Ms. LaBranche** also noted the paved apron would protect the edge of the roadway on Maplevale Road.

**Mr. Caswell** asked what the minimum width of a standard driveway; Mr. Quintal answered it was 10-12'. Mr. Caswell likened it to the width of a double driveway. He agreed the 22' width proposed was sufficient for the 2 houses.

**Mr. Allen** had some concern about the coming and going of two vehicles at the same time and would do further research. Mr. Quintal noted there are several existing town roads that are only 18' wide and there was adequate width for 2 cars to pass each other. Andrews Lane and Stagecoach Road were cited as examples.

**Waiver 3 – this is a request for waiver for the surface requirements of the road - 22' width versus town requirement of 24' and 3" of crushed asphalt versus town requirement of 2.5" type 1 bituminous concrete (subdivision regulation XV-F.1. and F.2).**

**Mr. Quintal** noted crushed asphalt would eliminate potholes from forming on the roadway. It is more stable and requires less maintenance. It also is not a completely impervious surface.

**Mr. Bath** noted he had no concerns with this waiver request as it was for 2 lots. He also noted this would need to be negotiated with the Selectmen.

**Ms. LaBranche** noted the most current example of a crushed asphalt surface was at 14 Powwow River Road if anyone wanted to observe it. Mr. Bath noted the light industrial park was also crushed asphalt.

**Mr. Nigrello** noted at the Selectmen's level, they would most likely ask for any maintenance needing be done continue the use of crushed asphalt and not to change to some other material.

**Mr. Bath** corroborated the fact that maintenance of the road surface would need to be included in deeds until the point at which the road might be accepted by the town.

**Mr. Andersen** appreciated the suggestion to use of crushed asphalt compared to concrete

**Dr. Marston** had no concerns with the proposal.

**Mr. Allen** noted before it gets deeded to the town, the hammerhead and existing ROW would be deeded to the town immediately to establish frontage for the lots. The lot owner's deeds will need to establish that they are responsible for the maintenance of the road.

**Ms. LaBranche** noted those items would be handled at the Selectmen level.

**Mr. Caswell** opined the waivers requested made sense. Looking to the future, is this a road, a lane, or a driveway? Are we satisfied with the combined waivers; is it sufficient? What would it be classified as?

**Mr. Quintal** noted that as per RSA 674:41.c. it could be considered a Class VI highway; under section d. it could be considered a private road. **Ms. LaBranche** noted most likely not be considered a private road as the town would own the property; it would be a Class VI road with an easement across it.

Mr. Caswell **MOVED** to approve Mr. Bath and Mr. Allen to select a review engineer; seconded by Mr. Nigrello. **Roll call vote** - Mr. Bath – aye, Mr. Allen – aye, Mr. Caswell, Dr. Marston - aye, Mr. Nigrello – aye. Vote is unanimous.

Mr. Quintal asked if the outside entity for review of the plans be conducted as soon as possible so he can make any suggested changes for the plan. Mr. Allen noted an escrow account would need to be established. \$2,500 was discussed at the initial amount for the account. Mrs. White will contact the Treasurer to set up an account.

Mr. Bath **MOVED** to continue the Public Hearing for the application for Dennis and Karen Quintal, 35 Main Street, East Kingston (MBL 08-02-08) for a 2-lot subdivision (Addyson Lane Subdivision) to February 18; second by Mr. Nigrello. **Roll call vote** - Mr. Bath – aye, Mr. Allen – aye, Mr. Caswell, Dr. Marston - aye, Mr. Nigrello – aye. Vote is unanimous.

**Marilyn Bott, 127 South Road** was there for the LLA and asked in the future an announcement could be made if a public hearing was not going to be held. Mr. Bath explained he had made that announcement at the very beginning of the meeting. Mrs. Bott noted she had joined the meeting later so she did not hear that announcement. She noted was glad to hear Mr. Quintal’s proposal and the discussions.

### **Other Board Business**

**Annual Growth Management** – Mrs. White had distributed updated Growth Management pages to the members. Since the original update, she had found there had been one new house built on Haverhill Road which brought the total dwelling units up to 777. Also last month Mr. Caswell had asked about accessory apartments. This number has been updated to reflect one new accessory dwelling unit was built in 2020. Ms. LaBranche had supplied the updated school numbers.

Mr. Nigrello asked Mrs. White if Growth Management determined the number of building permits to be approved in a year and asked what the percentage would be after the vote. Mrs. White explained she could not answer that question. That was information that was always monitored by the building inspector. She opined there was a maximum number of houses that could be built in a year by one specific builder, but if the lots were sold to individual people, they could all build on their lots.

Mrs. White also explained if the board did not review and vote on Growth Management every year, the cap on the number of building permits that could be issued would expire.

Mr. Bath **MOVED** to approve the Growth Management update as presented; second by Mr. Allen. **Roll call vote** - Mr. Bath – aye, Mr. Allen – aye, Mr. Caswell, Dr. Marston - aye, Mr. Nigrello – aye. Vote is unanimous.

Mr. Bath asked what the status was for hiring a new building inspector? Mr. Nigrello explained they have contracted per inspection for the short term, and they are evaluating applicants at the present time.

**Fee Schedule** – Mr. Bath referred to the revised fee schedule and asked if there were any questions. Mrs. White noted the updated fees were to increase the application fees for Lot Line Adjustment, Site Plan Review and Subdivision Approval from \$200 to \$250 based on increased abutter notice fees and newspaper notification fees.

Mr. Nigrello asked about home occupation fees and the difference between a regular and an invisible home occupation. He noted there was the same amount of work on the planning board’s part for an invisible and a regular home occupation and asked why there was a difference in the fees. Mrs. White noted that was the fee the Selectmen charge for the permits every year; the planning board did not set the fee. Mrs. White noted as the Selectmen set the fees for those permits, it would be up to them to change them. She opined the fee is not set depending on the amount of time it takes to review an application, but on what type of home occupation it is.

Ms. LaBranche noted that recognizing a regular home occupation with people coming to their house is a form of commerce, whereas an invisible home occupation in most cases is just a home office.

Mr. Bath **MOVED** to adopt the revised fee schedule as presented; second by Mr. Nigrello. **Roll call vote** – Mr. Bath – aye, Mr. Allen – aye, Mr. Caswell, Dr. Marston - aye, Mr. Nigrello – aye. Vote is unanimous.

**Announcement** – Mr. Bath made an announcement that Mr. Ragonese/Tilton Lane subdivision has appealed the Planning Board’s decision to Superior Court.

**Adjournment**

Dr. Marston motioned to adjourn; Mr. Nigrello seconded. Motion was unanimous.

The meeting was adjourned at 10:00 pm.

The next Planning Board meeting will be on February 18<sup>th</sup>, 2021.

Respectfully submitted,

*Barbara White*

Planning Board Secretary

Joshua Bath

Chairman

Minutes approved 2/18/2021