



**PLANNING BOARD
TOWN OF EAST KINGSTON
NEW HAMPSHIRE**

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

MINUTES
(Regular Meeting and Public Hearings of February 19, 2004)

AGENDA:

- 7:00PM -- **Board Business**
7:15 PM – **Continued Public Hearing** – for the proposed 2-lot subdivision of Joann E. Brandt, 41 Burnt Swamp Road, involving MBL10-5-1 (PB#03-13).
7:30PM – **Public Hearing** – for a proposed subdivision of Lisa Auger, 52/54 Burnt Swamp Road, involving MBL 10-6-1 and a two-unit condominium conveyance (PB#03-10).
8:00PM – **Public Hearing** – for a compliance hearing for Messrs. Cook & Sullivan, 3 Bowley Road, involving MBL 11-2-11 and the conditionally approved industrial site plan of 31,250 sf of non-residential space (PB#02-OC).
8:30PM – **Continued Public Hearing** – for a proposed elderly housing site plan of Messrs. Scapicchio/Mower, MBLs 13-3-1 & 14-4-24, involving 41 elderly housing units with a community center (PB#03-OF).
9:30PM – **Adjournment**

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

ROLL CALL: Mr. Day called the roll.

Members present – Mrs. **CE** Belcher, Chairman JR Day, Vice Chairman Mr. RA Smith, Sr., Dr. RA Marston, DVM and MB Dworman, ex-officio
Alternate members present – Mr. JD Burton and Mr. EV Madej
Advisers present – Ms. Maura S. Carriel, Rockingham Planning Commission (RPC) Senior Planner; Mr. LK Smith, Chairman, East Kingston Conservation Chairman; Fire Captain Andrew Conti, East Kingston Fire Department; Mr. Kory J. Skalecki, East Kingston Building Inspector

Voting member – Mr. Day noted that Mr. Madej shall act as a voting member in the event a member must step down, barring other considerations.

BOARD BUSINESS:

Minutes—

MOTION: Mr. R. Smith **MOVED** the minutes of the January 15, 2004 regular meeting be approved as presented. Mrs. Belcher seconded. The motion to approve carried unanimously.

Notes & Asides—

Wingold Grange – Mr. Day noted Wingold Grange will be presenting a program called “Local Concerns” presented on February 27 at 7:30PM. All are invited. It starts at 8:00. Mr. Day intends to attend and encourages all to attend. The Selectmen, fire and police will also be in attendance.

Correspondence

New Hampshire Office of Energy, Zoning & Planning conference is May 11. We will be getting an Agenda.

Mr. Day noted that the Reading File was available and included the list of ingredients from the tenant of Paul Masone as well as the Nonpoint Source Pollution pamphlet.

Mr. LK Smith announced that Amanda Stone of UNH will make a presentation regarding NROC. East Kingston has been accepted for the program in 2004 and there will be a planning meeting on Thursday, March 11 at 7:00PM in the Town Offices in regards to dealing with growth. The Planning Board, Selectmen and Conservation Commission are involved. Presentation will take place in June.

Mr. Day noted a handout of a 12-month calendar to keep track of pending items. He asked that if the Board knew of any other anticipated activities to be included, to please let him know. He stated the Board cannot lose track of the CIP as well as the ordinance reviews in November.

He stated that next week the Board will meet to discuss the church parking lot and a home occupation permit as well as a discussion with Joe Cacciatore regarding a home occupation proposal for a property on Willow Road. Town Counsel has the church parking lot plan for review and it will be available early next week. Maura Carriel did her review and Mr. Day complimented her on her sterling job.

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

Mr. Day opened the hearing.

For the applicant: Dennis G. Quintal, PE. A letter was received from Lieutenant Carl Richter of the Fire Department stating that the proposed water supply will meet the requirements as set forth in the Subdivision Regulations dated May 2003. It further stated that if all other conditions of the regulations are met upon the design and submittal of the drawing the Fire Department will approve those drawings for installation. The letter advised that the Planning Board must be satisfied with the release from Mr. Melanson.

Mr. Quintal stated that this would involve a dry hydrant and parking lane similar to Den's Auto. He met with Joann Brandt and the owner of the property, John Melanson. Mr. Melanson stated that he didn't care if the work was done on his property. He does not use that area and it would benefit him as well. Mr. Melanson did not want to attend the meeting but did sign a letter giving permission.

Mr. Day mentioned that the fire association has a program whereby people can buy dry hydrant parts which assure uniformity and Mr. Quintal added that that has been discussed with Joann Brandt. Mr. Larry Smith said that he thought this would probably require a permit from the Wetlands Bureau and a new permit has a section for installing and repairing of hydrants.

Mr. Day opened the floor to abutters, of which there were none.

Mr. Quintal stated that he has also corrected the MBL.

Next there was a review of the conditions for approval.

1. Original letter from Mr. John Melanson granting permission for a fire pond/dry hydrant on his property at 44 Burnt Swamp Road (MBL 10-6-8). Mr. Quintal has the original letter.

2. Easement language for MBL 10-6-8 fire pond/dry hydrant for Town Counsel review is still needed.
3. Fire Department approval and acceptance of fire suppression system in the form of a dry hydrant to reach Green Brook on the property of John F. Melanson, 44 Burnt Swamp Road (MBL 10-6-8). System is to be completed and accepted by the Fire Department prior to the issuance of a building permit by the East Kingston Building Inspector. Discussion ensued as to when this must be completed by. Mr. Day stated that it was needed to be in place before a building permit is issued. Ms. Carriel stated that there are three ways to go about this: Make it a requirement be in place before the plan is recorded; bond for it; or withhold the building occupancy to make sure it is completed.

Mr. Burton stated that the note on the draft plan submitted said nothing about a building permit. Everyone should agree that there will be no building permit before this was in place. Ms. Carriel suggested adding this as a note on the plan.

4. Certificate of Monumentation with Building Inspector signature. This is almost completed.
5. Note on final plan set page(s) to be recorded indicating they are a part of an "X" number of pages in the plan set on file with the Town.
6. Directional arrow with measured distance from the nearest lot corner to source of fire suppression water on final plan set.
7. All fees and charges due the Town in connection with the subdivision, including, but not limited to, application review by Town Counsel, Town Engineer, RPC Senior Planner, Fire Department and administrative costs incurred by the Town, be fully discharged.
8. Final mylar to be submitted to the Planning Board for Chairman signature and recording.

MOTION: Mr. Smith **MOVED** to conditionally approve the subdivision application of Joann E. Brandt, 41 Burnt Swamp Road, involving MBL 10-5-1 (PB#03-13) to subdivide the property into two lots. Dr. Marston seconded.

Conditions of approval are:

1. Easement language for MBL 10-6-8 fire pond/dry hydrant for Town Counsel review.
2. Fire Department approval and acceptance of fire suppression system in the form of a dry hydrant to reach Green Brook on the property of John F. Melanson, 44 Burnt Swamp Road (MBL 10-6-8).
3. System to be completed and accepted by the Fire Department prior to the issuance of a building permit by the East Kingston Building Inspector.
4. Certificate of Monumentation with Building Inspector signature.
5. Directional arrow with measured distance from nearest lot corner to source of fire suppression water on final plan set.
6. All fees and charges due the Town in connection with the subdivision, including, but not limited to, application review by Town Counsel, Town Engineer, RPC Senior Planner, Fire Department, and administrative costs incurred by the Town, be fully discharged.
7. Final mylar to be submitted to the Planning Board for Chairman signature and recording.

The motion carried unanimously.

Mr. Day closed the hearing.

PUBLIC HEARING—FOR A PROPOSED SUBDIVISION OF MRS. LISA AUGER, 52/54 BURNT SWAMP ROAD, INVOLVING MBL 10-6-1 AND A TWO-UNIT CONDOMINIUM CONVERSION (PB#03-10)

The hearing was opened by Mr. Day. Lisa Auger, Matthew Auger and their attorney, Mr. Bernard W. Pelech were present. Ms. Auger presented the Board with plans and Mr. Day noted that the Board does not normally accept plans during a hearing. There were several conditions to be met before approval.

1. Written waiver requests from Subdivision Regulations Section VII.R (fire suppression), IX.10 (test pit and perc test data), X.B (soils data) were received.
2. A signature block for the Planning Board Chairman representing Planning Board approval of the final plan was completed.
3. Remove that part of the Land Surveyor's note reference on the plan to RSA 676:18 III and RSA 672.14, which states "...this survey plat is not a subdivision pursuant to this title...") was completed.
4. All fees and charges due the Town in connection with the subdivision, including, but not limited to, application review by Town Counsel, Town Engineer, RPC Senior Planner, Fire Department, and administrative costs incurred by the Town, be fully discharged.
5. Final mylar was accepted with the request for one 11X17 copy to be submitted to the Planning Board for Chairman signature and recording.

Mrs. Belcher asked who will own and maintain the common land. Ms. Auger stated that the two owners of the property will be responsible for maintenance. The backyards will be maintained by each individual owner. Mr. Day stated that the Board has the condominium documents. The Board does not have any deed language for Town Counsel review, which is required before recording. The Town needs to have it for any future disputes as to who owes the taxes. This will be sent to John Daly.

It was noted that the Board has not yet invoked jurisdiction.

MOTION: Mrs. Belcher **MOVED** the Planning Board take jurisdiction of the subdivision condominium conveyance application of Lisa and Matthew Auger, 52/54 Burnt Swamp Road, involving MBL 10-6-1 (PB#03-10). Mr. Dworman seconded, and the motion carried.

Mr. Day opened the floor to the public.

Mrs. Joann Brandt, 41 Burnt Swamp Road was reassured that the building is unchanged.

Mr. Day closed the hearing to abutter comment.

Mr. Day stated the conditions for approval: the deed language and fees. Mr. Dworman stated that it was important to note the association documenting ownership of the septic and the driveway. Mr. Pelech noted that there is a limited common area to be shared by the occupants and that there are separate utilities.

MOTION: Mr. Dworman **MOVED** to grant conditional approval of the subdivision condominium conveyance of Lisa and Matthew Auger, 52/54 Burnt Swamp Road, involving MBL 10-6-1 (PB#03-10). Mrs. Belcher seconded.

The following conditions apply:

1. Submittal to Town Counsel of deed language for review and approval.

2. All fees and charges due the Town in connection with the subdivision, including, but not limited to, application review by Town Counsel, Town Engineer, RPC Senior Planner, Fire Department and administrative costs incurred by the Town, be fully discharged.

The motion to grant conditional approval carried with Mr. RA Smith voting against.

Mr. Day requested of the applicant an 11X17 copy of final plan to which she agreed.

Mr. Day closed the public hearing.

PUBLIC HEARING—FOR A COMPLIANCE HEARING FOR MESSRS. COOK & SULLIVAN, 3 BOWLEY ROAD, INVOLVING MBL 11-2-11 AND THE CONDITIONALLY APPROVED INDUSTRIAL SITE PLAN OF 31,250 SF OF NON-RESIDENTIAL SPACE (PB#03-OF)

Mr. Dennis G. Quintal, PE and Mr. Richard Cook were present for this compliance hearing. The items for compliance were:

1. All State permits have been received.
2. Regarding the upgrading of Bowley Road to Town standards, Mr. Cook has been working with the Selectmen on this. The Class VI road has to be fixed then voted on to change to a Class V road.
3. Note added to final plan set stating no future use of any proposed building shall include retail business due to traffic generation and parking calculations considerations. There has to be a note put on the plan stating non-retail use. Mr. Day stated that he wants it to state clearly that there will be no retail use of the property.
4. Town Counsel review of all easements language, e.g., for fire suppression systems. The Board has no evidence of this, but it will be provided.
5. Note added to final set sheets to be recorded indicating they are a part of "X" number of pages in the plan set on file with the Town. Mr. Quintal stated that he needed to know how many pages would be recorded with the Town. Ms. Carriel stated that the first three pages would be recorded with the Registry of Deeds. Mr. Day stated that the Registry does not like lines going through numbers. Mr. Quintal said that the plans can be "cleaned up" and he will go to the Registry to make sure they will accept the plans as he has prepared them. Mr. Day also stated that the words "Site Plan" needs to be on the plan. Mr. Quintal agreed to do that.
6. A letter from the Fire Department is needed stating their approval of the suppression system.
7. Performance and completion bonds agreed to with the Board of Selectmen has been done.
8. An updated Traffic Analysis is required if the use of buildings changes to a use with greater traffic than is currently proposed. Mr. Quintal stated that a revised site plan may be required at a future time as usage will be on a one by one basis.

Ms. Carriel stated that any changes in tenancy would require approval. Mrs. Belcher said that each building would be approached individually. It would be brought before the Board for approval and that they are planning to "build to suit".

Mr. Day stated that the Board would look at each building as it was being constructed and that it might require individual site plans. Mr. Cook acknowledged doing it on a case-by-case basis.

All building construction is subject to site plan review and that would trigger the Board's review. "All new building construction is subject to site plan review" will be added.

9. All fees and charges due the Town in connection with the site plan review be fully discharged prior to plan recording.
10. Lighting from fixtures marked "A1" in the lighting plan be directed away from all surrounding vegetation. Mr. Quintal stated that the lights have been redirected.
11. Note added to final plan set stating a compliance hearing with abutter notification required to review architectural design, use and landscaping for each proposed building before any individual building permit is issued. Mr. Day stated that he objected to that language. It should be "a hearing", not a compliance hearing. "Compliance hearing" will be removed and "All building construction is subject to site plan review" will be added.
12. Compliance hearing to establish applicant has met all conditions for Planning Board final approval of site plan.

Mr. Day opened the floor to abutter comment, of which there was none and the floor was closed to abutters.

The Board considered final approval of Cook & Sullivan's plan with the following administrative details to be attended to by the Chairman:

1. Add note regarding no retail activity permitted.
2. Town counsel's review of fire suppression system easement language.
3. Fire department to provide a letter of approval for the fire suppression system.
4. "Site Plan" to be added to the title box of the plan.

MOTION: Mr. Smith **MOVED** to grant final approval of Cook & Sullivan's site plan for the light industrial zone. Dr. Marston seconded, and the motion carried unanimously.

Mr. Day closed the hearing.

CONTINUED PUBLIC HEARING—FOR A PROPOSED ELDERLY HOUSING SITE PLAN OF MESSRS. SCAPIC CHIO/MOWER, MBLs 13-3-1 & 14-4-24, INVOLVING 41 ELDERLY HOUSING UNITS WITH A COMMUNITY CENTER (PB#03-OF).

Mr. William Gregsak, PE appeared before the Board and asked the Board for a 90-day extension. There have been contractual problems and he has not been able to get signatures on permit applications. The issues are being resolved. Mr. Mower was also in attendance.

Mr. Day asked what their estimate for having things completed and Mr. Mower stated that it would be in the next two weeks. The only progress made is the site specific permit from the NHDES.

Mr. Gregsak apologized for wasting the Board's time. Mr. Day recapped the activity in this matter since September 15, 2003. Mr. Gregsak stated that there have been revised plans which addressed some additional problems. There has not been a traffic report. Mr. Gregsak said that the Conservation Commission's information is incorrect. The wells have been taken care of. He said he has a letter from the State regarding conservation issues. Larry Smith has seen nothing regarding detention ponds.

John Burton noted that there have been several public hearings where people have come out to address these issues and no progress has been made. He asked what is the basis of the applicant's request for a 90-day extension. He hasn't seen anything to make him believe that this is just not a waste of time. It is not just inconvenient but also rude to have these people here. In one instance no one showed, the applicant having submitted a letter requesting a continuance. Mr. Burton suggested that the Board deny the request for a 90-day continuance and that the applicant should resubmit a more complete application.

Mr. Day opened the floor to abutters and advised that abutters were those who own property in this town which directly abuts the property in question.

Mr. Thomas Quarles, Jr. of Devine, Millimet, represents Hoggs Hill Ltd, an abutter, expressed his opposition to the application for the record. He introduced James Merrill, also from Devine, Millimet and Mr. George Halt, a geologist. Mr. Quarles stated that he believes it is time for the Board to deny. He stated that there was no progress in December when the Board stated that they wanted significant progress and now 60 days later there still has been no progress. He stated there is litigation involved in the acquiring of this land and that the applicant does not own the property in question.

Mr. Day asked Mr. Quarles to confine his remarks to land use issues and not litigation. Mr. Quarles asked the Board that if the applicant did not own the property, why were they here before the Board. In December the Board had specific requirements and asked for new plans. Mr. Quarles quoted Ms. Carriel's comments that there had been "little substantive progress" and asked the Board for the opportunity to be heard again.

Paul Bernier, 60 East Road. Mr. Bernier expressed his concern that he was going to be significantly impacted by this development in terms of his view as well as the road directly abuts his property adding noise and pollution to his list of objections and said he felt the project should be halted.

Margaret Caulk, 69 South Road. Mrs. Caulk asked the Board to please deny the continuation request and believes the developers are not acting in good faith and that they should come back at a later date when everything is in place.

Mr. Day closed the hearing to abutter comment.

MOTION: Dr. Marston **MOVED** to DENY the application without prejudice due to lack of progress. Mrs. Belcher seconded, and the motion carried unanimously.

Mr. Day noted that the door remains open for further applications whether it takes six months or two years. He noted that the approved lot line adjustment will lapse after a year if not recorded.

Mr. Day closed the public hearing.

ADJOURNMENT:

MOTION: Dr. Marston **MOVED** the Board adjourn. Mr. Dworman seconded, and the motion carried unanimously at 9:20PM.

Respectfully submitted,

Helen M. Lonek
Recording Secretary
Minutes approved 2/26/04