



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

2019-2020
Joshua Bath, *Chairman*
Tim Allen, *Vice Chairman*

Approved MINUTES
Regular Meeting February 20, 2020
7:00 pm

AGENDA:

- **Public Hearing** for the Wayne R. Ewald Revocable Trust, for 2-lot Subdivision application at 14 Tilton Lane (MBL 14-03-12) Paul Dobberstein / Ambit Engineering.
- **Continued Public Hearing** for Subdivision application for the Wayne R. Ewald Revocable Trust, 14 Tilton Lane (MBL 14-03-12) and Pamela A. Ewald, 2 North Road (MBL 14-03-07) for a 17-lot cluster subdivision (Tilton Village Estates, LLC) Barry Gier / Jones and Beach
- **Public Hearing** for Kevin Jones, 13 Depot Road, MBL 09-03-04 for a change of use.
- **Discussion** with Chris Mierswa, re: Sea of Green home occupation.
- **Annual Review** of the Growth Management Ordinance / Elderly Housing Ordinance
- **Discussion** re: NH Housing Appeals Board

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

Members Present: Chairman Joshua Bath, Vice Chairman Tim Allen, Dr. Marston, Bill Caswell, and Emily Andersen.

Advisors Present: RPC Senior Planner Julie LaBranche, Building Inspector John Moreau, Assistant Building Inspector Tom Welch, and Town Engineer Dennis Quintal.

Also present: Mr. Kevin Jones and applicant Joe Manzi; Mr. Chris Mierswa; Mr. Paul Dobberstein, Ambit Engineering representing the Wayne R. Ewald Rev. Trust, 14 Tilton Lane (MBL 14-03-12) for a 2-lot subdivision; Mr. Barry Gier PE / Jones and Beach representing the Wayne R. Ewald Revocable Trust, 14 Tilton Lane (MBL 13-03-12) and Pamela A. Ewald, 2 North Road (MBL 14-03-07) – for a 17-lot cluster subdivision for Tilton Village Estates LLC; and various residents of the Town of East Kingston.

Mr. Bath welcomed Ms. Andersen to the Board.

Minutes: Mr. Bath asked for a **MOTION** to approve the January 16th Minutes.

Mr. Allen **MOVED** to approve the January 16th minutes as presented; second by Mr. Caswell with a unanimous vote.

Chairman Bath noted they would be diverting from the agenda order and addressing the change of use for Mr. Jones first and then the discussion with Mr. Mierswa.

Public Hearing for Kevin Jones, 13 Depot Road, MBL 09-03-04 for a change of use.

It was ascertained that the property in question was within the Town Center District zone.

Mr. Bath asked Mr. Jones to explain his change of use to the board. Mr. Jones noted he was the owner of 13 Depot Road and there is an existing barn at the rear of the property which he would like to lease to Mr. Manzi for his business, Ace Clean-Outs Services Inc. There is electric service in the barn, with a motion detector light on the front. There is no plumbing in the building and everything is up to code.

Mr. Manzi explained his intent was to store his trucks at 13 Depot Road. Mr. Manzi has 6-8 employees. His employees would come to that location, park their personal vehicles, and then take the trucks to the job site. All work is performed off-site. They might also store some tools in the barn, but there would be no chemicals or hazardous materials stored inside, and no display of materials or equipment outside on the property. They would not be working on their vehicles other than checking tire pressure and oil levels.

When asked if he brought anything to the site after the clean-outs, Mr. Manzi explained everything was recycled or brought to donation sites; nothing would be brought back to the property.

He explained he has 1 box truck and 2 dump trucks. One of the vehicles would be parked inside the barn as it needed to be plugged in. When asked if he would park the other 2 vehicles behind the barn, he agreed.

Mr. Jones clarified there was a roadway in front of the storage unit property that leads to the barn and adequate space for parking of employee vehicles all around the barn. The roadway is well-graded and made of crushed asphalt.

There was discussion of work hours, and 7:00 am to 5:00 pm, Monday through Saturday was agreed upon. It was also noted that an annual fire inspection would be required. The decision will also be recorded.

Mr. Bath opened the floor to abutters; there being none, he closed the floor.

Mr. Bath **MOVED** to waive the majority of the site plan requirements that do not apply to this application as it is an existing building with no new construction and a change of use to a commercial use; second by Mr. Allen with a unanimous vote.

Mr. Bath **MOVED** to approve the change of use for Kevin Jones, 13 Depot Road, MBL 09-03-04 for the lease of the barn to Ace Clean-Outs Services Inc / George and Joe Manzi, with the following conditions: approved hours of operation: 7:00 am to 5:00 pm, Monday through Saturday; approval for 6-8 employees; approval for 3 trucks (1 box truck, 2 dump trucks); employee parking of personal vehicles to be behind the building; no storage of equipment / tools outside the building; no hazardous materials will be stored or used in the building; annual inspection by the Fire Department; applicant will need to come before the Planning Board for any changes to these approved conditions; all outstanding or future fees and charges due the Town and administrative costs incurred by the Town will be fully discharged; recording of the decision. The motion was seconded by Mr. Allen with a unanimous vote.

Mr. Jones and Mr. Manzi thanked the board. Mrs. White informed Mr. Jones there would be a fee from the registry to record the decision and she will inform him of what is needed.

Mr. Bath closed this public hearing.

Discussion with Chris Mierswa, re: Sea of Green home occupation.

Mr. Mierswa stated in regard to the warrant article up for vote in March regulating the GVW of vehicles in the agricultural/residential district, he has been told since he has a pre-existing home occupation to allow his business, he would be exempt from that new ordinance. He would also like to know if he is exempt from the regulated substances clause as he has more than 5 gallons of gasoline.

Ms. LaBranche explained since Mr. Mierswa's home occupation approval predates the new requirements, he is exempt from any of the new changes. The only way that would change is if he did not renew his home occupation permit yearly or if he discontinued the business for a period of more than two years.

Mr. Mierswa thanked the Board. Mr. Bath closed the discussion.

Public Hearing for the Wayne R. Ewald Revocable Trust, for 2-lot Subdivision application at 14 Tilton Lane (MBL 13-03-12) Paul Dobberstein / Ambit Engineering.

Mr. Bath opened this public hearing and invited Mr. Dobberstein to present the application.

Mr. Dobberstein explained that the applicant was requesting to subdivide their property, an existing lot of record that is 18.92 acres in size, into two lots. One lot would include the existing house and be 2 acres in size, and the other lot would be the remainder of the lot which would be 16.92 acres in size. The second lot includes an existing barn. The angle in the lot line is to comply with the 25' setback from the property line for the barn and DES's well radius requirements. Both lots have the required road frontage.

They have received DES approval for lot one; it is not required for lot 2 as it is over 5 acres. The application is compliant with the zoning ordinance and the subdivision regulations.

The applicant has requested a waiver from Subdivision Regulation Section VIII.A.10 requiring test pits and a proposed 4,000 sf area on the proposed lot 2. This lot will contain 16.92 acres and has minimal wetlands. As it contains greater than 5 acres, it does not require test pits and DES Subsurface Bureau approval. A concurrent cluster subdivision shows test pit data for lot 2.

Mr. Allen noted as a 2-lot subdivision, they would be exempt from the provision of installing an approved fire protection source, but any future subdivision of lot 2 shall necessitate the installation or provision of an approved fire protection source... Mr. Allen asked for that note to be added to the plan and the deed. And include the direction and distance to the closest fire protection water source on the plan.

Mr. Allen also asked if instead of asking for the waiver for the test pits, could they receive the data from Jones & Beach as there have been numerous test pits on that piece of property and add it to the plan. Mr. Dobberstein agreed to get the information from Jones & Beach and add it to the plan.

A new lot number for one of the lots will also need to be issued from Avitar, the assessing company. One lot will keep the existing number and the other will be issued a new number.

It was noted that well protected radii and septic boundaries are ideally contained wholly on a lot, but as this is an existing well and an existing road, in this instance it would not apply.

Wetland scientist stamp needs to be included on the plan, show the full ROW that abuts the property and label as such.

The applicant has requested a waiver from Section VIII.A.10 of the East Kingston Subdivision Regulations which requires test pits and a proposed 4,000 sf area on the proposed lot 2.

Addressing the waiver, Mr. Bath explained that to grant a waiver, the following must be met: RSA 674:36 II (n) - (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. A majority vote would find for one or the other of the conditions.

Mr. Dobberstein stated he would include the test pit information from Jones & Beach and therefore withdrew his waiver request.

Mr. Bath opened the floor to abutters.

Gordon Powers / 26 North Road – Mr. Powers asked if this was a request for 2 more home lots beside the cluster subdivision. Mr. Bath stated it was not and explained they were taking an existing 18.92-acre parcel and dividing off a 2-acre house lot for the existing house, and leaving a 16.92-acre lot with a barn as the other lot.

Michael Jacques / 2 Tilton Lane – Mr. Jacques was concerned about the radius of the cul-de-sac at the end of Tilton Lane. Wouldn't the existing 25 ft radius need to be enlarged? Also, if another house was built on the large piece of property, it would be out of the boundary of the fire pond.

Mr. Bath closed the floor to abutters.

Mr. Allen noted the applicant was not proposing to do anything with the larger lot at this time, so no expansion of the cul-de-sac size was required. If a house was built there, the access would be via a driveway to the cul-de-sac.

Mr. Allen reiterated that as a 2-lot subdivision, as per Subdivision Regulation VII.S.1. a & b - the applicant was be exempt from the provision of installing an approved fire protection source, but any future subdivision of lot 2 shall necessitate the installation or provision of an approved fire protection source...

Mr. Bath reviewed the following are required plan revisions or notes to be included on the plan; addition of the wetland scientist stamp; add the fire suppression note; extend the ROW line; add the new lot number; show the test pit information for lot 2; add the distance and direction to the closest fire protection water source; add the NH subdivision approval number; provide a certification of monumentation verified by the Building Inspector; and payment of all town fees associated with the application.

Mr. Bath **MOVED** to approve the 2-lot Subdivision application for 14 Tilton Lane (MBL 14-03-12) for the Wayne R. Ewald Revocable Trust with the above stated conditions; second by Mr. Allen with a unanimous vote.

Mr. Bath closed the Public hearing. Mr. Dobberstein thanked the board.

Continued Public Hearing - Subdivision application for the Wayne R. Ewald Revocable Trust, 14 Tilton Lane (MBL 13-03-12) and Pamela A. Ewald, 2 North Road (MBL 14-03-07) for a 17-lot cluster subdivision (Tilton Village Estates, LLC) Barry Gier / Jones and Beach

Mr. Bath invited Mr. Gier to make his presentation to the Board.

Mr. Bath noted there was not a full board this evening and as such, if there is a tie vote there is no tie breaker. Mr. Gier stated they were not ready for a vote at this time, unless the board felt they were ready to vote on the yield plan.

Mr. Gier presented the updated plan to the board. He uploaded the drainage calculations and will address the concerns from the RPC Planner and the Town Engineer at the next revision.

Mr. Gier addressed the notes from Mr. LaBranche regarding the yield plan. Mr. Gier pointed out the areas on his plan; the stormwater areas are now not included in the private lots.

Ms. LaBranche had noted the reserve areas on the yield plan are smaller than on the cluster design plan which has less impervious surface. Comparing the size of the yield plan to the cluster plan, it appears the sizes are not the same.

Items discussed and to be changed and shown on the next revision of the yield plan:

- the fire cistern will be shown on the next revision; all homes will be 1,000 feet from the cistern and the applicant will contact the fire dept. for the design.
- lots Lot 15, 13 11, 2 are not the required width; the ordinance states that no lot shall be less than 125' in width. Mr. Gier will adjust the lot widths.
- lots 15 & 16 – test pits are not seen for those area; they did not do test pits for those lots.
- lots 14 & 15 – the contiguous upland area numbers does not match; it will be corrected.
- the well protected zone for lot 8 is missing; it will be corrected.
- the stormwater features were relocated outside the lots. Mr. Dobberstein noted that the drainage features are typically included on the lots for maintenance purposes.
- the well radii for lots 4 & 2 go into the stormwater management area; Mr. Dobberstein will address this.
- Mr. Allen asked for measurements from the septic fields to the stormwater mgmt. areas.
- Show the size and grades for typical leach fields.
- access to drainage areas behind lot 4 will be on the cluster subdivision plan as well as the yield plan.
- remove the well radii from the drainage easement on lot 5.
- show well radii for all lots contained within the property boundaries and the septic locations. Mr. Allen was concerned with the close proximity of some of the well radii to the property lines. There is particular concern if there is enough room for a well radius and septic field on lot 8.
- He would also like to see the septic locations depicted on the subdivision plan.
- the upland area numbers for lots 4 and 12 seem to not have taken the wetlands into consideration.
- the drainage area access between lots 2 and 3 and between lots 5 & 6 do not appear wide enough to allow for maintenance at 25'; please widen to accommodate the equipment needed to service the areas.

Ms. LaBranche noted that for a cluster subdivision, the board needs to accept and approve the yield plan as being compliant as it sets the number of lots for the subdivision. Any waivers would also need to be agreed to. Most planning boards do not take jurisdiction until they accept the yield plan.

Mr. Quintal has requested a revision to the standard road cross-section; does the board need the applicant to change this? Mr. Bath stated yes; the road cross-section should conform to current engineering requirements for road construction (binder a minimum of 2" and wearing layer a minimum of 1.5").

Mr. Dobberstein asked if fencing around the stormwater BMPs was the board's wish. Mr. Quintal likened one of the features to a swimming pool without a fence, and the other features have the possibility of holding water for 1-2 days and could be a danger to small children. Mr. Bath stated they would like the areas fenced for the sake of safety.

There needs to be input from the Selectmen and the Road Agent if they are willing to take possession of the stormwater areas for the maintenance. There needs to be some idea of what the cost of maintenance will be for these areas for the town to be able to make a decision. This could possibility be an item to include in the road management budget for next year. Mr. Quintal noted that the type of BMPs depicted on the plan are the best for this subdivision. Mr. Allen suggested that the homeowner's association could be responsible for the maintenance and provide the town with a report on a yearly basis.

Mr. Allen asked about the well protected radii. With the proposal for having overlapping well radii, wouldn't those easements preclude the neighboring property from ever doing anything on that portion of

their property; yes. Mr. Allen asked if the easements that overlap properties could be designed so as few easements as possible occur. Mr. Bath asked if it is allowable for the radii to overlap the ROW? Yes – it can overlap up to 25’.

Well radii for lots 6-7-8 are along the street. Could they be relocated to the back of the lot? Yes, but they are just to show where they could be located. In all likelihood they will not be in these areas when the homes are built. Test pits for the lots were discussed and although some lot lines had changed, there was indication that the previous plan had shown there was enough space for the well radius and the septic field on the lots; they would not need to do new test pits.

Mr. Caswell asked if Mr. Gier had a master checklist of what was required for each of the lots to ensure the required items were included, acknowledging when things were altered on one lot, it could change things for the lot adjacent. Mr. Gier noted they did have such a list which included frontage, upland, septic area and well radius requirements. Mr. Caswell asked how many lots have easements? Mr. Gier ascertained it could be 5 lots. As per board remarks from the last meeting, some lots have changed and the road has changed. Mr. Gier stated that East Kingston was the only town that has an issue with the well radius overlapping the ROW. DES allows well radius to overlap over the ROW.

Mr. Allen stated on a plan the planning board was going to sign off on, they shouldn't be showing plans that show a well radius overlapping the BMP area as pollutants could affect those wells. Ms. LaBranche noted that on lots 16, 10, 9, 8, 7, and 6 the well radii all intersect with the swale areas and into the roadway.

Many of the lots are just at the minimum requirements for a subdivision to enable the most lots onto the piece of property. We are trying to ensure that when approval is given, the homeowners are not going to have problems with their properties and their wells. Mr. Bath stated if that means reducing the number of lots by one to allow appropriate well protection, it is a consideration of the board.

Consensus of the board was due to the fact the location of the well radius, septic area and house location could change when the house is actually built, it was deemed unnecessary to relocate the radius for the lots at this time. But as the yield plan will need to change to allow for the correct frontage on some of the lots, the radius for those lots should be within the lot boundaries.

Ms. LaBranche stated notes could be included on the subdivision plan to ensure any grading of the lots would not direct the water onto other properties or into the road, but into the drainage areas.

There was discussion on the roadway entrance onto East Road. There are many concerns regarding the placement of the entrance. Mr. Gier was asked to stake the entrance on either side with 6 stakes so board members could have a visual of the entrance. A visit to the site with Planning Board members and the DOT to look at the entrance location was discussed.

Mr. Bath noted an escrow account for the application review process will need to be established for reviews of this plan by the Circuit Rider and the Town Engineer.

It was ascertained a site walk was in order and Saturday; March 14 at 9:00 am was decided upon. Mr. Gier was asked to stake the roadway, centerline of the road, where drainage systems are going to be located, and stormwater management areas so they can be observed. People will meet at the end of the cul-de-sac on Tilton Road. Mr. Gier will also attend.

Mr. Bath opened the floor to abutters.

Peter Gilligan / 4 Autumn Lane – Has issues with the roadway location particularly in the direction of 107 westbound. He suggested the road be one-way with a turnaround. There could be a gate at the East Road entrance which could be accessed only by emergency personnel, eliminating traffic going onto East Road. This would be a safer environment for children in the development. This would mean that Tilton Lane would be the access to the subdivision. This could also deter the use of the subdivision road being used as a shortcut from 108/107 in either direction. He also suggested the utilities be placed underground.

Gordon Powers / 26 North Road – Is in favor of a thru-road as opposed to a turn-around road. He asked if the board would look at Tilton Lane also during their site walk.

Michael Jacques / 2 Tilton Lane – Was concerned with the existing radius of the cul-de-sac and thinks it should be enlarged as there will be more traffic. Ms. LaBranche noted that the cul-de-sac would be removed and it would become a straight through road. Are sidewalks being considered? Mr. Allen noted they were not at that point yet. He asked what the open space was for as it seems a good portion of the proposed open space is swamp. There is a little spring going down the rock wall.

He opined the applicant should be giving back to the town in the form of trails or a ballfield or the like. Ms. LaBranche noted there was environmental benefit to the open space with less pavement, a natural buffer at the perimeter, and it promotes more groundwater recharge.

He thinks the board idea of having the homeowner's association pay for the maintenance of the stormwater and drainage areas is a good one.

Regarding construction vehicles, is there any regulation for that? The condition of Tilton Lane is a concern as it is not in good shape now. He would like to see the new road used as the entrance for any construction and not Tilton Lane. He is concerned more road salt for the new road could affect his well. He also has a concern of groundwater availability. Shouldn't a hydrologist need to make sure that 16 new homes will not deplete the amount of water for the surrounding homes? Ms. LaBranche noted it was not predictable.

Is the applicant going to put in a subdivision, or are the lots going to be sold individually? Will he need to endure 2 years of construction? What type of homes will be built? He was ensured this was not low-income housing. Ms. LaBranche stated the board had no control over what type of houses could be built there.

Ms. LaBranche noted that developer would need to post a road bond which would cover damage to Tilton Lane. Mr. Jacques asked what about during construction? Who will be fixing the road then? Mr. Allen noted the board has the ownness to look out for the rights of current property owners as well as the applicant.

Mr. Allen explained they were being so careful on the yield plan because at any time the developer could decide to build to the yield plan and not do the cluster development.

Mr. Jacques thanked the board for their work.

Matt Ranz / 31 East Road – there have been many accidents on his property in the 6 years he has lived there. He likes the 100' setback around the subdivision. The roadway looks to have been moved further away from his property. Mr. Gier noted they had moved it and have added a row of trees, but that might change if the location for the road changes. Ms. LaBranche asked if the developer could coordinate with Mr. Ranz for the type of trees to be planted. He agreed.

Mr. Bath closed the floor to abutters.

There was board discussion and wrap-up.

Changes to be made to the Yield Plan:

- Make sure all lots have 125' lot frontage. Specifically check lots 2, 8, 9, 10, 11, 13, and 15.
- Stormwater reserves areas seemed smaller in the yield plan than in the cluster plan; check this.
- Septic reserve areas to be located within septic setbacks.
- Show the fire cistern on the yield plan.
- Adjust the minimum lot widths.
- Correct the data for uplands for lots 14 & 15.
- Adjust well locations for lot 5.
- Add well location and protected area for lot 8.
- Adjust easement widths for all stormwater areas.
- Correct upland calculations for lots 4 and 12.
- Clarification for drainage areas should specifically show they can fit within that area.

Changes to the Cluster Plan:

- Have the typical road section meet current engineering requirements.
- Fencing to be added around the stormwater management areas.
- Once yield plan is done, on the cluster plan - maximize the radii on the properties away from drainage areas and the road and minimize the easement numbers.

For the Site Walk:

- Show the centerline of the road
- Mark where the stormwater management areas will be
- Stake the roadway entrance

Also:

- Address the items on the Town Engineer's review and add those to the plan.
- Coordinate with the Fire Chief on the cistern design.
- Submit the escrow form and escrow check to the Town Treasurer.

Mr. Bath **MOVED** to not take jurisdiction due to changes necessary to the yield plan as discussed and continue the Public Hearing for the Subdivision application for the Wayne R. Ewald Revocable Trust, 14 Tilton Lane (MBL 13-03-12) and Pamela A. Ewald, 2 North Road (MBL 14-03-07) for a 17-lot cluster subdivision Tilton Village Estates to March 19, 2020; second by Mr. Allen with a unanimous vote.

SITE WALK FOR TILTON VILLAGE ESTATES
MARCH 14, 2020
9:00 AM
MEET AT THE CUL-DE-SAC ON TILTON LANE

Annual Review of the Growth Management Ordinance / Elderly Housing Ordinance

Mrs. White explained she had added the figures for new houses for 2019 on Table 1 and the total number of permits on Table 3, and Ms. LaBranche has provided the updated student population figures for Table 2.

When asked, Mr. Moreau noted there were approximately 2.6 permits available to developers per year, and 15 permits total available per year.

Mr. Bath **MOVED** to approve the Growth Management updates for 2019; second by Dr. Marston with a unanimous vote.

Discussion re: NH Housing Appeals Board

Legislation was passed for a housing appeals board of 3 people who will have authority to hear all appeals for planning board decisions on housing, going around Superior Court. This is being appealed and updates will be forthcoming as they are available.

Adjournment

Dr. Marston **MOVED** to adjourn; Mr. Allen seconded, with a unanimous vote.

Mr. Bath closed the meeting at 9:50 pm.

The next Planning Board meeting will be on March 19th.

Respectfully submitted,

Barbara White

Planning Board Secretary

Joshua Bath

Chairman

Minutes approved **APRIL 16, 2020**