

TOWN OF EAST KINGSTON, NH
PLANNING BOARD MEETING MINUTES
March 7, 2000

FILE

JOINT MEETING WITH KINGSTON PLANNING BOARD

AGENDA

7:30 Clay Pond Development Corp. LLC – Design Review Hearing

East Kingston Members attending: Richard A. Smith Sr. - Chairman, John L. Fillio - Ex-officio, Dr. Robert Marston, and Alternate David Morse.

Absent: Edward C. Johnson – Vice-Chairman, Beverly Fillio, and Alternates Peter A. Riley, and Robert Nigrello.

Kingston Members attending: Glenn Coppelman – Chairman, Marilyn Bartlett – Vice Chairman, Stan Yiokarinis – Ex Officio, Steven Briggs, Ellen Faulconer, Scott Ouellette, Alfred Albert, Alternate Diane Eadie, and Secretary Sally Cockerline.

Others attending: Richard Wilson – Kingston Building Inspector, Lawrence K. Smith – EK Conservation Commission Chairman, Glenn Greenwood – RPC Planner, Ken Briggs – Kingston Town Engineer, Charlie Zilch, PE, Patricia Brown, Wayne Poole, Paul Trabucco, George and Lillian Henshaw, Dave Kelley, Joe Murphy, and other members of the public who did not address their concerns.

Held at the Kingston Town Hall, 163 Main Street, Kingston, NH, Kingston Planning Board Chairman Coppelman opened this March 7, 2000 Joint Planning Board meeting at 7:06 PM with greetings and introductions to the East Kingston Planning Board. From 7:06 PM to 7:30 PM the regular business of the Kingston Planning Board was conducted.

Clay Pond Development Corp. LLC: At 7:30 PM Chairman Coppelman opened the design review hearing for Clay Pond Development Corporation who proposes a cluster development on land located in the towns of Kingston and East Kingston and referenced as Tax Map R35-10 in Kingston and MBL# 5-1-5 in East Kingston. He then directed that after the applicant has made his presentation, questions would be entertained by the Kingston Planning Board, then the East Kingston Planning Board, and finally the abutters.

Representing the applicant, Charlie Zilch, PE distributed plans to board members for review and explained that a conceptual plan for a conventional 26-lot subdivision was presented in September 1999. Because direct East Kingston access could not be obtained this plan was abandoned. Access was only available off of Route 111 in Kingston. A new conceptual plan has since been designed that proposes a 9-building multifamily cluster development using 34 acres in Kingston and 51 acres in East Kingston, as allowed by RSA 674:53, with all buildings, parking, and roadways located in the town of Kingston and all septic system leach fields and open space (common land) located in East Kingston. The density figures were calculated by totaling all the usable soil less 10% divided by 80,000 square feet.

He continued to explain that the proposal consists of six 4-plexes and three tri-plexes and that a 1000-ft. roadway connecting to a loop would access the units. All units would be served by the existing well that currently services the commercial water company, thus the commercial water operations would cease.

Diane Eadie stated that the site is not located on an aquifer, at least not on the Kingston portion.

Mr. Zilch went on to say that the leach field sizes have not yet been designed as only conceptual plans have been drawn. Upon conceptual approval, further calculations would be made.

Chairman Coppelman opened the discussion to questions from the Kingston Planning Board.

Scott Ouellette questioned if it was permissible to use open space in East Kingston to meet the requirements in Kingston. He asked if other members had a problem with this.

Ellen Faulconer stated that it should be in writing that the property can not be subdivided later; it should be written in the deed.

Mr. Zilch responded that the final plan would reflect this plus it would be written in the deeds to show the open space/common land as required. One-third of the project area must be designated to open space.

Ms. Faulconer reiterated that the open space must not be developed later as it was used to calculate the number of units for this proposal.

At the inquiry of Chairman Coppelman, Mr. Zilch stated that fire protection/suppression plans have not yet been considered, however, all such plans would require review and approval by the Kingston Fire Department.

Chairman Coppelman replied that fire department approval would definitely be required.

Mr. Zilch further stated that the development is close to the lot line to minimize wetland encroachment and that the length of the road measures 1000 feet before the loop starts.

Chairman Coppelman then opened the discussion to questions and comments from the East Kingston Planning Board.

David Morse stated that his only concern at this point would be to require the open space be placed in a conservation easement to prevent future development.

Mr. Zilch responded that the open space provisions in Kingston's regulations would protect the open space.

Ms. Eadie conceded that the open space would in fact be protected, as the regulations require.

Mr. Morse again stated the open space should be placed in a conservation easement.

Mr. Ouellette then read an excerpt from the Kingston Innovative Zoning, which states:

5. Open Space

I. A minimum of one-third (33%) of the total project area, not including wetlands, shall be set aside for a common open space intended for the use and enjoyment of the residents of the development. This common open space shall be permanently restricted for recreation, open space of conservation uses. It shall not be resubdivided but may contain accessory or utility structures and improvements necessary for the development or for the educational or recreational use. The open space or common land, or any portion of it shall be held, managed and maintained by the developer until it is owned, in one or more of the following ways:

- a. By a Homeowners' or Condominium Association, set up by the developer and made a part of the deed or agreement for each lot or dwelling unit;*
- b. By a Conservation Trust or private non-profit organization, such as the Society for the Protection of New Hampshire Forest or Audubon Society, which will ensure that the common land will be held in perpetuity as open space;*
- c. A public body which shall maintain the land as open space for the benefit of the general public – for example, the Town.*

All agreements, deed restrictions, organizational provisions for a Homeowners' Association and any other method of management of the common land shall be established prior to Planning Board approval.

II. Common open space areas shall have adequate access to allow for recreational use of those areas.

Mr. Ouellette went on to say that the aforementioned states the open space cannot be resubdivided or approved until a condominium association, conservation trust, or the town is assigned to maintain it. At the inquiry of John Fillio, Mr. Ouellette stated that if the open space is privately owned, then it could be closed to the public.

East Kingston Planning Board Chairman Richard Smith asked if a condominium association is being planned or would these buildings be individually owned.

Mr. Zilch replied that this plan is in the conceptual stages and those issues have not yet been discussed or decided. He further stated that this is not an elderly housing proposal. This project is similar to Cranberry Meadows, a development by Dean Howard. The 4-plexes would consist of 2-bedroom units; the building itself would measure approximately 170 feet long.

Chairman Coppelman stated if this project was proposing four single units divided up vs. four units in one building, then the applicant would need to seek relief from the Zoning Board of Adjustment as this is in the ordinance, not a regulation.

Mr. Fillio stated that the issue of whether or not the open space in East Kingston would satisfy the open space requirements in Kingston needs to be clarified.

Mr. Zilch stated that RSA 674:53 gives the property owner the right to choose to use the town boundary line as a boundary line between the two parcels or combine the lots together to be treated as one.

RSA 674:53 Land Affected by Municipal Boundaries

- I. *An owner of contiguous land which is located in more than one municipality may treat a municipal boundary line as an existing boundary between lots, tracts, sites or other divisions of land for purposes of this title unless the existing or proposed use of land or arrangement of structures in one of the municipalities requires and is dependent upon land or improvements located in the other municipality or municipalities in order to fulfill the land use ordinances or regulations of the first municipality with respect to such matters as lot size, density, frontage, uses or accessory uses, set-backs or access, or in order to comply with applicable state or federal regulations....*

Mr. Zilch continued to say that this was done in Sandown; land in Fremont was used to fulfill Sandown's regulations.

Chairman Coppelman asked if the East Kingston Planning Board had any issues with the septic system leach fields being located in East Kingston.

East Kingston Planning Board Chairman Smith responded that as long as the septic systems meet the approval of East Kingston's building inspector and the state there should be no problem. He further stated that the East Kingston Planning Board would require the open space be placed in a conservation easement as well; nothing else would be acceptable.

Ms. Eadie inquired if there were other abutting parcels configured similarly to this parcel; they would have to be looked at the same way, which could pose a space problem.

Mr. Zilch responded that all the other abutting properties have frontage in East Kingston. This particular parcel is unique.

Chairman Coppelman noted that the Henshaw property extends into East Kingston as well.

Ms. Eadie questioned whether there are other potential developments to the abutting properties. If so, the board should consider creating an inner access road across the properties exiting out onto Willow Road, thus preventing several short roads accessing off of Rte. 111.

Mr. Zilch stated that this proposal's road would be private.

Kingston Town Engineer Ken Briggs stated that it is the responsibility of the town to provide police and fire protection to all dwellings. Kingston has not allowed private roads in the past. This proposed road should be a town road, built to town specifications.

Ms. Faulconer agreed and stated that a 60-ft. right-of-way would be required as well as the fact that cul-de-sacs and access roads must not exceed 800 feet.

Upon reviewing the regulations it was determined that cu-de-sacs could not exceed 1000 feet.

Mr. Zilch said this road was 1000 feet long and that the loop creates the two accesses which are required.

Ms. Faulconer stated that the two access requirement has not been met as they exit out the same way.

Marilyn Bartlett added that the proposed road is not 60 feet wide.

Mr. Zilch stated that the proposed road is 24 feet wide (pavement measurement).

Kingston members then discussed the length of the Kingston Fairgrounds road and the Lamplighter Estates. It was decided that these items were not a fair comparison to the proposal on the table by reason of different zoning and each has to comply with specific regulations.

Chairman Coppelman then opened the meeting to questions and comments from abutters.

At the inquiry of Dave Kelley, Mr. Zilch stated that the entrance to this project would be located farther east of the existing camping entrance and that some grading and hill cutting would need to be done. Sight distance has also been met.

Chairman Coppelman emphasized that this proposal would need to receive state DOT approval and that the state is cautious of those curves.

Mr. Kelley added that both the curves and the crossroads at Willow and Little River Roads are dangerous.

George Henshaw stated that he is under the impression that the water that services the water company is located in a crevice of bedrock. He is against this proposal and fears the septic systems to be located in East Kingston could contaminate this water source. He further asked what the water demand would be for this proposal.

Chairman Coppelman noted that the existing well was approved for bottling purposes. He asked if there were any projected calculations for water demand to service these multifamily units.

Mr. Henshaw continued to say that the area to be disrupted is the recharge area.

Ms. Eadie stated that a hydro study was conducted on the water operations and that it would be in Mr. Zilch's best interest to look at it. Though this is not an aquifer, it may be more critical if it is determined to be a bedrock aquifer. This should be investigated.

Lillian Henshaw stated that she heard stories of condos on Route 125 where both the septic and water supply had problems. More must be considered to protect the potential residents of this project. These 33 units will ultimately bring in more children to the schools. She added that the proposed septic systems are running close to the wetlands and this whole process is new ground for Kingston. The board needs to protect the potential residents and the septic and water supplies of this project.

Chairman Coppelman stated that this proposal is only in the design review phase – they are not even sure what the buildings will look like or what the leach field configurations are.

Mr. Zilch elaborated that the leach fields are located 1,100 feet away from the well on a nice area of land that is somewhat flat.

Joe Murphy asked how the cluster housing is calculated and if this means more houses on a parcel than normally allowed.

Chairman Coppelman explained that the same number of units/houses on any given lot is allowed, the only difference is the actual placement of those units. They can be clustered together vs. spread out over the entire parcel and that one must have a minimum of 20 acres to propose a cluster development. Cluster housing is in the innovative zoning ordinance that has specific restrictions. He went on to say that 80,000 square feet is needed to create a new lot, however, only 60,000 square feet of it is needed to make it buildable. Both the East Kingston parcel and the Kingston parcel was used to calculate the open space needed for this proposal; wetland is not considered in this calculation.

Mr. Zilch added that 10% is also deducted to determine the density calculation.

East Kingston Conservation Commission Chairman Larry Smith stated that he would like to echo the East Kingston Planning Board's concern that the open space be placed in a conservation easement. The East Kingston Conservation Commission has already identified this parcel as needing protection. It should be in a trust and not a condominium association, that way it would remain open to the public. He further stated that this parcel does not have road frontage in East Kingston and that this was the issue with the original layout proposal.

Mrs. Henshaw asked if this open space would require road access. Chairman Coppelman replied that at this point, this has yet to be determined.

At the inquiry of Steve Briggs, Mr. Larry Smith stated that this parcel is zoned residential/agricultural and the minimum lot size is 2 acres for single dwellings, and 3 acres for duplexes.

Ms. Eadie said that there is the issue of the edge of the wetlands; have they been identified?

Mr. Zilch replied that all the wetlands have been mapped out showing Hydric A and Hydric B soil types. This was completed by Tim Ferwerda. A high intensity soil survey (HISS) was conducted on both the Kingston and East Kingston parcels.

Mr. Ouellette recommended that at this juncture, the biggest issues should be addressed so this proposal could move on. Have the road provisions been met? Can the open space in East Kingston be used to satisfy the open space requirements in Kingston? These questions must be answered first.

Mr. Steve Briggs suggested that town counsel be contacted to assist in interpreting these issues. Patricia Brown stated that she had her attorney review the ordinance and found that these issues have been met.

Members then discussed the process in obtaining town counsel input. Requesting assistance prior to receiving a formal application would place the burden of town counsel fees onto the Kingston taxpayers, whereas contacting counsel after the application has been submitted would place this burden on the developer.

Regarding the private road proposal, Ms. Bartlett stated that the town would not accept this as it has never done so in the past. The road must be a town-approved road.

Mr. Zilch replied that other towns accept private roads. He also stated that the road's entrance was move to minimize the impact on the wetlands. It may be moved again as it has not yet been approved by the NHDOT.

Mr. Ken Briggs stated that because of the curves the houses across the street from this proposal were not allowed to access off of Route 111- only off of Little River Road. They must consider the roadwork before approval, as they may require deceleration lanes.

Ms. Faulconer said that they must also address the cul-de-sac design and clarify whether the road can stop at the loop and start a new road or if it is all considered contiguous. There is only one outlet; the board should get legal counsel to see if there needs to be two access points.

Mr. Zilch asked how he should consider the road— as a separate right-of-way? He said he is not sure how to relay the roads that way. He thought the use of the property would support the proposed roadway.

Ms. Faulconer stated they need to see if town counsel concurs with his interpretation.

Kingston Building Inspector Richard Wilson stated that he doesn't consider this design to be a cul-de-sac. Any blockage on these roadways would stop traffic on the loop. Fire protection access must be met – this needs to be a public road. If East Kingston wants their parcel in a conservation easement, then access to that must be given. This proposed 24-ft. wide private road must be modified to accommodate multiple emergency vehicles. There is no place for a truck to turn around on this proposed road.

Ms. Faulconer added that this is why there are restrictions on road lengths. The board needs to get legal advice first. They need to look at adequate access.

Chairman Coppelman stated that upon the submission of a formal application, the board could further address these issues.

Ms. Faulconer went on to say that both the Kingston Health Inspector and the East Kingston Health Inspector would need to review and approve the septic systems.

East Kingston Planning Board Chairman Smith responded that the East Kingston Building Inspector would be the official who reviews and approves septic plans in East Kingston.

Mr. Henshaw asked if an alternative septic system plan would be required in the event one should fail.

Mr. Zilch replied that he was not sure what the state would require here. There is a lot of land, thus replacement would not be difficult.

Chairman Coppelman announced that once a formal application is submitted, further issues could be resolved and that all of the abutters would be renotified of a new hearing. This hearing would not continue beyond tonight. With no further discussion, he closed this hearing at 8:28 PM and the East Kingston Planning Board was excused from the meeting.

Respectfully submitted,

Catherine Belcher
Secretary

Minutes completed and on file March 8, 2000.

Approved: 3/10/00