



PLANNING BOARD  
TOWN OF EAST KINGSTON  
NEW HAMPSHIRE

2006-2007:  
*James Roby Day, Jr., Chairman*  
*Catherine Ellen Belcher, Vice Chairman*

**MINUTES**

(Regular Meeting and Public Hearing Minutes of 15 March 2007)

**AGENDA:**

- 7:00PM - **Board Business**
- 7:15PM - **Continued Public Hearing** – Site Plan review of Kathleen and Charles Ford, 13 Depot Road, East Kingston, MBL 09-03-04, (EKPB 06-OD) for a business utilizing pre-made storage units in the Commercial District.
- 8:00PM - **Continued Compliance Hearing** – Kathleen and Glenn Clark, 21 Burnt Swamp Road, East Kingston, MBL 10-04-08, for a 9-lot residential cluster subdivision, (IAW EK ZO Art XI) (PB#06-03).
- 8:45PM - **Continued Board Business**
- 9:15PM - **Adjournment**

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

**ROLL CALL:** Mrs. White called the roll.

**Members present** – Vice-Chairman CE Belcher, Chairman JR Day, Dr. RA Marston, Mr. RA Smith, Sr., and Robert Caron, ex-officio

**Alternate members present** – Mr. EA Lloyd, Jr., Mr. RF Morales, and Mr. DF Sullivan,

**Advisors present** – Dr. J Robinson, Senior Planner, Rockingham Planning Commission (RPC); Eric Steltzer, Planner, RPC; Mr. LK Smith, Conservation Commission Chairman; and Mr. AJ Mazur, East Kingston Fire Chief.  
Mr. Day noted that Mr. RR Donald, Building Inspector, was not in attendance.

**Voting members** – Mr. Day noted that there was a full Board in attendance.

**BOARD BUSINESS**

Mr. Day asked the Board and advisors to assemble for a group photo. It turned out splendidly.

Mr. Day announced to the Board that Mr. Ron Morales was a new alternate member on the Planning Board, complete with the approval of the Board of Selectman, and he welcomed Mr. Robert Caron as the primary ex-officio from the Board of Selectmen.

He then introduced Eric Steltzer from the Rockingham Planning Commission (RPC), who is presently the Circuit Rider for Atkinson. Mr. Steltzer will be Dr. Robinson's replacement on the Board as our advisor from the RPC, as Dr. Robinson will be concentrating her work on the I-93 widening project. She will be working in parallel with Eric for the next few meetings. Dr. Robinson stated that she and Mr. Steltzer had been working together for about a month.

Mr. Day noted that Mr. Steltzer was from Massachusetts, and described his educational and work experience. Mr. Steltzer synopsized his education and what projects he had worked on before coming to the RPC, and was introduced to the members of the Board by Chairman Day.

**CONTINUED PUBLIC HEARING FOR SITE PLAN OF KATHLEEN AND CHARLES FORD, 13 DEPOT ROAD, EAST KINGSTON, MBL 09-03-04, (EKPB 06-OD) FOR A BUSINESS UTILIZING PRE-MADE STORAGE UNITS IN THE COMMERCIAL DISTRICT.**

Mr. Day opened the public hearing.

***For the applicant, Mr. Dennis George Quintal, Civil Construction.*** Mr. Quintal read his letter requesting a continuance from the Board. Mr. Quintal stated that he, as the Fords' agent, had requested the continuance due to the fact that he needed to submit a lot line adjustment (LLA) application to the Board as was recommended, and hoped the LLA could be considered at the April Planning Board meeting. He requested that the hearing for the site plan be continued until after the lot line adjustment is accepted.

Mr. Quintal illustrated the lot line adjustment plan, showing the two separate lot lines after the lot line adjustment with the Damsells. It cleared up any problems in differentiating the lots, and gave the Ford's room for more storage units.

Mrs. Belcher agreed that it was a good idea to clean up the lines, and that it looked pretty straightforward, suggesting the two hearings could be held on the same night.

Mr. Day enquired if Mr. Quintal was going to submit the lot line adjustment and the site plan on the same diagram. Mr. Quintal stated that he had attempted that for a prior site plan, and since it made things too confusing, he thought he would present them separately to the Board.

Mr. Day opened the floor to abutters. There being none, he closed the floor to abutters.

Mr. Day entertained a motion for continuance.

**MOTION:** Mrs. Belcher **MOVED** the Planning Board continue the public hearing for the site plan review of Kathleen and Charles Ford until 8:00pm on 19 April 2007. Mr. Caron seconded, and the motion passed unanimously.

Mr. Day closed the hearing.

### **CONTINUED BOARD BUSINESS**

***Minutes.*** Changes and additions being noted, Mr. Day entertained a motion to accept the minutes from 15 February 2007,

**MOTION:** Mrs. Belcher **MOVED** the Planning Board approve the public hearing minutes of 15 February 2007 with changes and additions noted. Dr. Marston seconded, and the motion carried unanimously.

***Handouts distributed.*** Mr. Day went over the handouts distributed to the Board.

- ◆ Sample ballot with results on the Warrant Articles from Town Meeting.
- ◆ Conservation easement update for East Kingston as of March 2007.
- ◆ Article from the Union Leader on *Managing Growth in New Hampshire*.
- ◆ Planning Board Yearly calendar.
- ◆ The following information regarding the Clark subdivision.
  - An updated copy (March) of outstanding questions and conditions of approval for the Clark subdivision, along with the previous version of same (February).
  - Pertaining to the Clark subdivision, copies of correspondence between Mr. Day, Mr. Cronin, attorney for the Clarks, and Mr. Beliveau, Town Counsel. Also a letter from Cronin and Bisson in reference to the bonding of the subdivision.
  - Copies of the three easements and the Declaration of Covenants and Restrictions for the Clark subdivision.

***Town Meeting Results.*** Mr. Day announced that he was pleasantly surprised at the Town Meeting results, for all of the articles proposed by the Planning Board had passed by more than 2-1 or 3-1 margins.

***Conservation Easements.*** Mr. Day thanked Mr. Richard Smith for putting his 105-acre farm into conservation, and recognized Mr. Larry Smith's efforts towards obtaining the development rights of all the land on the list.

Mr. Morales asked if there were a way to recognize those individuals who had put their land into conservation easements without costing the Town any revenue. Mr. Smith stated that all the land had been represented on the map that was at the Town Meeting. Mrs. Belcher suggested that Mr. Smith might put the entire list into next year's Town Report.

Mr. Morales stated that he thought East Kingston had come very far in the amount of land put into conservation (a total of 428.45 acres, eliminating a potential of 76 house lots) since they had only voted on it in 2003.

Mr. Sullivan asked if the land on the easement list was in current use as he knew people posted their land, which denied access to the public. Mr. Smith answered that if they were not taking the additional recreation deduction, they were allowed to post for anything they wanted to. He also said that some easements included certain restrictions within them.

**Town Center map.** Mr. Day noted that there was a mistake on the Town Center proposal map presented in the Town Meeting warrant that was caught after the fact, but that the text of the proposal had been stated correctly. The Fire Association Pavilion area was included in the Town Center in error, and a correction must be made.

**Planning Board budget.** The Planning Board budget is \$34,500 for the year. Because of noticing costs, we are already over-budget. We have saved a significant amount of money by changing noticing to the Atlantic News, and since the Atlantic News is distributed to Jewett's General Store and Carmen's Restaurant, we are well within the requirement for noticing in a paper of local circulation.

**OEP Conference.** The Conference is on April 28<sup>th</sup> and the Board members should have all received a copy of the agenda. Please let Mr. Day know if you are interested in attending. He reminded Board members that the registration deadline is the 20<sup>th</sup> of April, and noted that there were funds earmarked in the budget for the conference.

**Targeted Block Grant (TBG).** Mr. Day turned over the floor to Dr. Robinson to address where the Board is going with the TBG and proposed Master Plan Chapter, and what needs to be done to get there.

Dr. Robinson reviewed that the Board had first applied for the TBG, pointing towards farm friendly zoning. In earlier discussions, they had discussed creating an agricultural zone or large lot zoning, and after further consideration, decided that that was not the approach they wanted to take. They looked at other planning tools that might be more beneficial to promoting agriculture and educating people in that area. A good starting point was the survey regarding inter-community farm friendly from Larry Smith. The Board changed its focus to an agriculture chapter for the Master Plan, which would educate people about what type of agriculture exists both in East Kingston, and in relation to the State overall, and what things they could do to promote agriculture.

Dr. Robinson had contacted Nada Haddad, an agricultural educator from the UNH Cooperative Extension, who agreed to come and present at a forum in April. Growers from the area, people in agriculture, and the general public would be invited to attend this forum to learn from the presentation. Ms. Haddad would discuss Federal agriculture programs, and what is happening in the State with agriculture, and the growers would have a chance to convey what they thought would be helpful to them.

Dr. Robinson would like Mary Currier (NCRS), or someone from her office, to participate in the forum as well, to speak about what the Federal role is in terms of supporting agriculture. The NCRS is the body that deals more directly with Federal farmland programs. Looking at Mr. Smith's conservation easement list, one can see the subscribers are also supported by the USDA farming ranchland protection program, which is one of the many types of farm protection programs available to farmers. There are separate programs for wetlands and wildlife habitats as well.

Dr. Robinson wanted feedback from Board if they were comfortable going in this direction; having a discussion type forum with a couple of speakers, and using this as the basis for a first-time agriculture chapter in the Master Plan. Ms. Haddad had suggested conducting an agricultural inventory, which would include what farms were in East Kingston at the present time and their products. It would also be good to include some historical data of how many farms had been in East Kingston in the past and what has changed. Ms. Haddad stated she would be available the 23<sup>rd</sup> or the 26<sup>th</sup> of April.

Mr. Day expressed concern with the dates that Ms. Haddad had suggested, as one was on a Monday night and the other a Thursday night. He was afraid there would not be much public participation given those nights were during the week, and the Board members agreed. Mr. Day asked Dr. Robinson to see if Ms. Haddad would be available for a Saturday forum, which could be held at the elementary school and she agreed to contact her. She also reminded the Board that Ms. Haddad conducted other workshops on a regular basis and might not be available herself, but someone else from the extension might be able to attend in her stead. Mr. Morales recalled that the Master Plan Goals and Visioning sessions had been held at the school on a Saturday, and the turnout had been quite good.

Mrs. Belcher suggested extending a personal invitation to the farmers, and Mr. Day offered that members of the Board could also distribute fliers around the Town. Mr. Day enquired who might help if it were held on a weekend. Dr. Robinson stated that Mary Currier or someone from her office might be available.

Dr. Robinson informed the Board that Ms. Haddad was not available to speak to the group on March 29<sup>th</sup>, as they had originally planned for a joint session with the Conservation Commission. She suggested they could meet without Ms. Haddad, but Mr. Day stated he felt uncomfortable starting without knowing anything about the program.

Mrs. Belcher stated that she liked the whole concept for the chapter, and Mr. Lloyd reminded the Board that someone from the RPC had acted as facilitator at the visioning sessions. Dr. Robinson said that her office would be glad to do that again and would hope to have 1-2 speakers available. It would be like the visioning session, but focused totally on agriculture.

Mr. Larry Smith stated that he had compiled a list of 15-16 farms for the farm-friendly survey, which could be a start.

Mr. Day asked Dr. Robinson to check if Ms. Haddad was available to speak just to the Board on April 19<sup>th</sup>.

COMPLIANCE HEARING FOR KATHLEEN AND GLENN CLARK, 21 BURNT SWAMP ROAD, EAST KINGSTON, MBL 10-04-08, FOR A 9-LOT RESIDENTIAL CLUSTER SUBDIVISION, (IAW EK ZO ART XI) (PB#06-03).

Mr. Day opened up the public hearing.

For Mr. Steltzer's benefit, Mr. Day reviewed that the subdivision had been given conditional approval in June 2006. He stated from an engineering standpoint, it was a well-crafted subdivision, and that Mr. Berry had done a superb job. The Board had a copy of the first three pages, which will be the recorded pages of the Mylar.

Mr. Berry stated that he had corrected the pages to include the second road name, and had removed a previous notation that was included in error. All the names on the three sheets had been changed to match, and the new pages had new revisions dates.

Mr. Day recapped that at the last hearing, the Board had gone through the conditions of approval and there had been two areas of concern which the Board could not act on, that is, the bonding question and the easement and covenant language. Since then, the respective attorneys had reviewed and agreed upon the three easements. Two of the easements concern fire suppression and access to the fire pond area, and the third has to do with the grading and drainage for Clark Road.

The Declaration of Restrictions and Covenants was initially put together by Atty. Cronin, and then reviewed by Atty. Beliveau with his comments and recommendations, and the Board has a copy of both documents.

Mr. Day stated that both attorneys and the Fire Chief had reviewed the three easements, and all parties were satisfied with the language as presented.

Mr. Day confirmed he had reviewed the *Covenants and Restrictions* and agreed that Atty. Beliveau's comments and additions are in the Town's best interests. He asked Mr. Clark in reference to Article I, *Property Description*, shouldn't the name Chestnut Hill be changed to Morse Hill? Mr. Clark agreed that it was Morse Hill.

The ordinance reads "shall have a homeowner's association, or an association of a different kind", one of which is tenants-in-common. The applicant proposes tenants-in-common, which means the common land will be held by all the tenants in the development and they will be collectively responsible for its maintenance and care. Atty. Beliveau ensured the Town's authority to oversee that it is done. Mrs. Belcher agreed his comments were very good.

Article IV addresses an architectural review committee, the declarant being Mr. Clark. If the subdivision should be conveyed to someone else, that person would become the declarant.

Article V.6. addresses Tanks and Other Storage, and refers to a *reversionary owner*. Mr. Day had enquired with Atty. Beliveau what the term meant, and Mr. Beliveau described it as perhaps an obscure legal term.

Mr. Day asked the Board if the Restrictions and Covenants satisfied their needs.

Mrs. Belcher asked what the difference was between a homeowner's association and tenants-in-common; how would they facilitate the upkeep of the common land and how would the money to do that be raised? Mr. Berry explained that each homeowner would have a 1/9<sup>th</sup> undivided share of the common land and make the decisions for that land, and they would each be assessed 1/9<sup>th</sup> value of the land for tax purposes.

Mr. Smith offered that Article III.D. should read, in part, "...harm state or federally recognized rare, endangered, threatened, or species of special concern.", to mirror statutory language.

Mr. Mazur stated that the distance from the waterhole to the properties was not shown on the plan. Mr. Day agreed that information was necessary for a site plan, but was unsure if it was necessary for a subdivision. Mr. Berry stated he could add those measurements to the road plan. Mr. Mazur agreed it would meet Fire Department needs if it was somewhere on the plan. Mr. Berry stated he had met with representatives from the Fire Department and had previously discussed the location of the fire pond in relationship to the entire subdivision.

Mr. Day stated that the Board knew from earlier discussions that none of the lots were more than 1,200 feet from the fire pond. Mrs. Belcher expressed that she was sure the Board had spoken of what Mr. Mazur was alluding to, but was not sure they had formally adopted it into their procedures yet. Mr. Day stated that the Board would address their changes to Town Counsel who could agree upon the final product with the applicant's counsel.

Mr. Day stated that the next concern was the bonding and asked the applicant to speak to that question. Mr. Nadeau stated that they had an irrevocable letter of credit from the bank, but the bank would not release the letter of credit until the mylars were signed. Mr. Day likened this to a "chicken and egg" dilemma.

Mr. Morales asked if they would be setting a precedent by accepting a letter of credit in place of a bond? Mr. Day did not think so. He stated that the Selectmen would need to be on top of this, since letters of credit could be tailored for individual situations. He reminded the Board that some years ago, the Town had been stuck with a letter of credit that was allowed to lapse. Ever since then, they have refused to accept letters of credit that were not specifically irrevocable, with the Board of Selectmen having the power to decide whether the letter of credit was still current. If the applicant would provide the letter of credit to the Selectmen, the Selectmen will make the decision whether it is acceptable or not.

Mr. Day suggested a conditional approval, with the bond question remaining. To accommodate the "chicken and egg" question, Mr. Day noted that Attorney Beliveau had agreed to hold the signed mylars until such time as the irrevocable letter of credit is in the possession of the Selectmen. When the Board is advised that the letter of credit is in the Selectmen's possession, the plan can then be recorded. The applicant cannot proceed without the signed and recorded mylars.

Mrs. Belcher reminded the ex-officio that in addition to the road bonding, reclamation was also an issue and cautioned the Board of Selectmen to be aware of those concerns since they affected the Town and every abutter.

Mr. Clark stated that there had been a lot of issues regarding reclamation, and observed that the entire pit area was encompassed by the subdivision. In fact, the circle on Rodam Road is on the pit site, so as soon as the road was put in, the reclamation would be complete.

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

Mr. Day reviewed the proposed remaining list of conditions of approval with the Board. He stated he had eliminated #5, 6, and 7 as they pertained to the easements and declaration of covenants they had already examined.

On the list, #1- fire suppression, #2- acceptance of roads, #3- lots 4, 5, 6, and 7 being fully reclaimed, and #4- certificate of monumentation were all after the plan was approved. That left #5- bonding of the road and #6- payment of outstanding and future fees. Mr. Day added #7, which would read as follows, "Chairman shall be authorized to sign the Mylar to be placed in Town Counsel's possession until bonding is in place."

Mr. Day entertained a motion for conditional approval.

**MOTION:** Mrs. Belcher **MOVED** the Planning Board grant conditional approval for Kathleen and Glenn Clark, 21 Burnt Swamp Road, East Kingston, for a 9-lot residential cluster subdivision (MBL 10-04-08), (PB#06-03) based on the conditions outlined. Dr. Marston seconded, and the motion passed unanimously.

Mr. Day closed the hearing.

Mr. Berry thanked the Board for their time.

**CONTINUED BOARD BUSINESS**

Mr. Day observed that this month was the end of Dr. Marston's and Mr. Richard Smith's terms on the Planning Board, and that Dr. Marston had agreed to serve another 3-year term, and Mr. Smith had agreed to serve a 2-year term.

Mr. Day recalled that the Town had had ordinances in their present forms since September 1972, and that Mr. Smith had served his first term in 1973, and has been on the Board ever since. He had been the Chairman of the Planning Board for 27 years, was even the secretary for one year, and had been Chairman of the Board of Adjustment as well. Mr. Smith stated that, in fact at one time, he was the Chairman of the Planning Board and the Board of Adjustment at the same time. Mr. Day reminded the Board that Dr. Marston had also been on the Board since 1975. Mr. Day applauded them both for their spirit and dedication to the Town of East Kingston. Everyone cheered.

**ADJOURNMENT:**

**MOTION:** Dr. Marston **MOVED** the Planning Board adjourn. Mr. Caron seconded, and the motion carried unanimously at 8:40 pm.

Respectfully submitted,

Barbara A. White  
Recording Secretary

James R. Day, Jr.  
Chairman

Attachment: Glenn & Kathleen Clark open-space cluster residential subdivision plan (EKPB #06-03) Conditions of Approval dated 15 March 2007

Minutes approved 19 April 2007

PLANNING BOARD  
TOWN OF EAST KINGSTON  
NEW HAMPSHIRE

**NOTICE of DECISION**

Notice is hereby given that, on 15 March 2007, the East Kingston Planning Board, at a duly noticed Public Hearing for Kathleen and Glenn Clark, 21 Burnt Swamp Road, MBL 10-4-8, voted unanimously to conclude the COMPLIANCE HEARING for the 9-lot residential cluster subdivision plan (IAW EK ZO Art XI) (PB#06-03). After reviewing the waivers and conditions identified in the conditional approval granted the applicant on 15 June 2006, the Board noted the following conditions which remain outstanding:

Conditions:

- 1- Fire Department approval of fire suppression systems design, and the testing and acceptance of systems prior to the issuance of building permits for dwellings.
- 2- Town Engineer inspection and acceptance of completed roads and related infrastructure prior to the issuance of building permits for dwellings.
- 3- New lots numbered 4, 5, 6, and 7 shall be fully reclaimed prior to the issuance of building permits for a dwelling.
- 4- Certificate of Monumentation reflecting granite/concrete bounds properly set which is signed by the Building Inspector.
- 5- Bonding for road construction, fire suppression, and reclamation in place with the East Kingston Board of Selectmen.
- 6- The Chairman of the Planning Board shall be authorized to sign the mylar pages to be placed in Town Counsel's possession until bonding is in place.
- 7- All outstanding or future fees and charges due the Town in connection with the subdivision, including but not limited to the reviews of Town Counsel, Town Engineer, RPC Senior Planner, Building Inspector, and Fire Department, and those administrative costs incurred by the Town be fully discharged.

For the Planning Board,



J. Roby Day, Chairman

Posted: East Kingston Town Offices and East Kingston Post Office on 17 March 2007

cc:	Board of Selectmen	Applicant	Town Counsel	Police Department
	Building Inspector	Conservation Commission	Highway Agent	Health Officer
	Fire Department			