

Town of East Kingston, NH
Planning Board
Minutes

Date of Meeting: March 20, 2003
Place of Meeting: Town Hall
Time of Meeting: 7:00 p.m.
Type of Meeting: Monthly Meeting

Present: Richard Smith, Chairman; John Fillio, Ex-Officio; Dr. Robert Marston, Roby Day, Cathy Belcher, Roby Day and Eugene Madej, Alternate.

Others Present: Maura Carriel, RPC; Larry Smith, Conservation Commission, Andy Conti, Fire Department and Kent Shepherd, Building Inspector

Call To Order: Mr. Smith called the meeting to order at 7:00 p.m.

Roll Call: Mrs. Rice conducted the roll call of the members present. Mr. Smith appointed Mr. Madej as a regular member for this evening.

In-Coming Correspondence:

1. Inquiry letter from Attorney John Anthony Simmons, Attorney at Law.
2. State Planning News.
3. Rockingham Economic Development Council grant application for low income housing.
4. Technical advisory bulletin from Rockingham Planning Commission regarding Master Plan updates. Copies will be made and distributed to board members.

Discussion of Alternates:

Mr. Day asked about the procedures for interested residents who would like to serve the Planning Board as an alternate. Mrs. Rice informed the board that she had placed a notice in the monthly newsletter under the Planning Board report and asked that a special note be inserted seeking alternates. The Board noted that anyone who is interested, should forward a letter of interest to the Board.

Planning Board Training Series:

Ms. Carriel asked the board if they would attend a training workshop in Exeter if sponsored by RPC. Several members noted that they would be very interested in attending.

Mr. Day noted to the applicants and consultants that the board would be setting the timer for the 30 minutes in order to effectively keep the agenda moving this evening.

Continued Public Hearing for a proposed four lot subdivision for Richard Cook and David Sullivan, 33 Haverhill Road, TMBL 11-2-11 for three residential lots and one non-residential lot

Mr. Richard Cook and Mr. David Sullivan, owners were present. Mr. Dennis Quintal, Civil Construction

was present. Mr. Frank Postle and Mr. David Toothaker were also present.

Mr. Quintal presented the board with revised plans and apologized for not getting them to the board sooner. Also in this packet of information were revised drainage calculations, test pit and soil data. Four full set of plans were presented. Changes to the plans were in accordance to the report prepared by RPC and report prepared by Jay Stevens, Engineer. It was noted that the revised drainage plans, test pit and soil data has been given to Mr. Larry Smith, Conservation Commission for review. This same packet of information will be forwarded by the board to Jay Stevens.

Mr. Postle asked for a point of order regarding the continued public hearing with revised plans being presented at the time of the hearing without the public having had a chance to view them prior to the meeting.

Mr. Quintal noted the changes were made in accordance to the report prepared by RPC and asked the board if they would like to discuss the plans.

Mr. Postle noted that he has determined himself an abutter and asked if he may comment.

Mr. Day noted that abutter comment has not been solicited at this point during the meeting.

Mr. Quintal asked if the board would like him to explain the changes and status of the items pertaining to Ms. Carriel's report. The board asked him to proceed.

The first comment is that Bowley Road is a Class VI roadway. Access to the proposed subdivision is shown from Bowley Road and a roadway extension from Ashlie Road. At the last meeting the applicant indicated that he had met with the Board of Selectmen to discuss the Town's authorization for a conditional lay out of the roadway as a Class V highway with the applicant paying all costs for improving the roadway to Town standards. The Planning Board should obtain an update from the Board of Selectmen on their direction to the applicant on the request. As the right-of-way to be used for an access is Town property, it is the understanding that the Town will need to apply for the NHDOT permit for the upgrade and proposed new intersection. The Board should coordinate with the NHDOT on this application. Once concern is the angle of approach to NH 108, and any resulting safety issues that may arise from that. Ms. Carriel has spoken with Allan Garland of NHDOT District 6, and he is aware that traffic generation data is being developed for the proposed subdivision and site plan applications; that data will be taken into consideration in any driveway permit application.

Mr. Quintal noted a revised State of NHDOT entrance permit has been submitted. A prior approval for a state entrance permit had been granted for the elderly housing complex originally proposed. A traffic study is currently underway which will be sent to Ms. Carriel, Mr. Stevens and Mr. Allan Garland, NHDOT, District 6 for review. Mr. Quintal explained that this permit will essentially be an update of the permit switching the use from elderly to commercial.

Mr. Quintal addressed was the upgrading of Bowley Road. It was noted that Mr. Cook and Mr. Sullivan have approached the Board of Selectmen relative to this issue and that Mr. Cook and Mr. Sullivan will be responsible for this upgrade. The Board discussed the angle of the new road entering and existing onto Route 108. It was noted that some of the property is privately owned, however the full scope of the width of the new road to present existing conditions is deceiving. Mr. Quintal noted he will provide the plan of improvement for Bowley Road to the Board.

Mr. Fillio noted his understanding of this issue was the applicant would be upgrading Bowley Road to a town standards.

Soils Information was submitted and should be reviewed by the Board of adequacy.

Mr. Quintal noted that the additional soils information has been submitted.

At the 12/19/02 meeting an abutter raised a question as to whether the setbacks in Article V, Section H of the Zoning Ordinance apply to residential construction within the Light Industrial/Residential district. There was some initial discussion by the Board but the issue did not appear to have been resolved. The Board's decision could affect the number of residential lots that could be proposed.

In an attempt to define the issue, Ms. Carriel offers her comments. While Article V, Sec. H outlines setbacks for the district, the intent of Sec. B is clearly to create special conditions for residential development in the district, in stating that "Residential housing development in the district will be in accordance with the East Kingston Zoning Ordinance and Subdivision Regulations." The language does not clearly specify which section of the ordinance any proposed residential development must comply with, but my assumption is that the intent was to direct residential housing to comply with Art. X-Lot Area and Yard requirements, rather than to the more restrictive setbacks for non-residential uses in the district. It is important to note that a residence constructed within the district could, in the future, be converted to a light industrial use. If that were to happen, the more restrictive setbacks in Sec. H would apply.

Mr. Quintal asked for the Board's consensus regarding the zonal setbacks. Mr. Quintal pointed to the property map showing the existing property line, the property line to be created with the subdivision of the three residential lots and explained that a 200 foot buffer has been provided between the residential zone and the business zone starting from the newly created lot line.

Ms. Carriel noted the Board needed to interpret the language as it was not clear in the ordinance as to where the 200' buffer would begin, from either the original, existing lot line or the lot line being created from the subdivision of the residential lots.

The members of the Board voiced that they interpreted the 200' buffer zone would begin with the newly created lot line created from the subdivision of the residential lots as Mr. Quintal had depicted on the plans presented.

The board noted that with this particular piece of property the underlying zoning is considered Residential/Agricultural with an overlay zone allowing the commercial/industrial use of the land.

Mr. Postle asked if the board would take a vote on the interpretation.

Mr. Day noted that Mr. Postle would be given an opportunity to voice his comments.

Mr. Quintal asked if he could address the latest memo of March 14th from Ms. Carriel. The board asked him to proceed.

Mr. Quintal noted that item #1 of the 3/14 memo has been corrected regarding the proposed number of lots being created. Item #2 regarding the revision date has been addressed. Item #3 regarding soils data has been

submitted and the board is awaiting a reply. Item #4 regarding additional test pits has been completed and the results have been submitted. Item #5 regarding building setbacks has been discussed. Item #6 regarding topography has been submitted. Item #7 regarding Fire Department issues have been addressed and the final easements are currently being addressed. Items 9 and 10 have been addressed by adding the owner of record and a revision block has been added and corrected. Items 11 and 12 have been revised in the current plans regarding roadway cross-sections and drainage report. The board engineer will address the Ashlie Drive connection and existing pavement issues. Other outstanding issues include all state approvals and bonding.

Mr. Quintal explained that he has addressed all eight comments from Jay Stevens and that information will be forwarded in the packet furnished tonight. Mr. Quintal will also provide 11 x 17 copies for the board members of the revised plans.

The plans for the Fire Department were distributed to Mr. Andy Conti for review.

Ms. Carriel noted that additional concerns such as parking and traffic will need to be reviewed.

Mr. Postle asked if documents could be supplied prior to the hearing for review by the public, specifically revised plans. Mr. Postle addressed his concerns regarding the interpretation of the ordinance regarding the zonal boundary setback and the development of the residential lots someday into commercial/light industrial lots. Mr. Postle addressed concerns of setbacks in relationship to other districts and ignoring Section H. Of the Zoning Ordinance. He asked if waivers had been submitted regarding these issues. He felt the board took the meaning of the ordinance very liberal and felt that the board should not be interpreting the Ordinance, that interpretation should be left up to the Zoning Board of Adjustment and perhaps a variance would be in order.

The Board noted that it had agreed with the interpretation of using the newly created lot line for the residential subdivision for establishing the 200 foot buffer.

Mr. Postle stated he felt that other options should be explored and that the Board should not violate the ordinance. He asked about the radius issue of the intersection of Ashlie Road to the newly proposed road.

Ms. Carriel noted that the revised plans have taken into account the turning radius.

Mr. David Toothaker noted he has concerns as he will about the proposed new road and new road frontage will be created. He noted concern over a "new setback" limit being proposed from the frontage instead of a side setback area. He feels that with the creation of 320' of new frontage, the current frontal setback requirements from a road, that approximately 6,000 square feet of his property is unusable for building any sort of structure. He noted that currently the frontal setback requirement is 30', with a 10 side setback. He noted his lot will change from a side setback to a frontal setback requirement. Additionally, Mr. Toothaker asked if his driveway will be rebuilt from the point of the cul-de-sac being removed to the new road. He noted his neighbor across the street will be in the same situation. Mr. Toothaker also addressed the issue of wetlands and fragmentation.

Mr. Larry Smith noted that wetland fragmentation would not occur and would be handled within the drainage report and that no net increase or decrease wetland of his lot would occur. Mr. Larry Smith also explained the use of culverts to keep the flow of water moving so as to not impact his property or fragment the wetlands.

The board noted concern with the 65 day time limit. Mr. Cook and Mr. Sullivan asked the board for an extension to complete this review.

Mr. Day made a motion to continue the public hearing until April 17, 2003 at 7:15 p.m. at the East Kingston Town Hall.

Mr. Fillio seconded. The motion passed unanimously.

Continued Public Hearing for a proposed non-residential site plan for Richard Cook and David Sullivan, 3 Bowley Road, TMBL 11-2-11 for the construction of a 31,250 square feet of non-residential space

Mr. Richard Cook and Mr. David Sullivan, owners were present. Mr. Dennis Quintal, Civil Construction was present. Mr. Frank Postle was also present.

Mr. Quintal presented the board with revised plans and apologized for not getting them to the board sooner. Mr. Quintal noted he had addressed the comments previously received within the RPC reports.

Mr. Quintal noted that the traffic impact analysis will be provided. The second area of concern was the type of uses associated with the buildings. Mr. Quintal noted it was the impression of Mr. Cook and Mr. Sullivan that they would receive approval for the basis building, the site, the water supply, the sewer system, the parking and they would be the owners of the project. The individuals leasing the units would need to obtain separate individual site plan approvals from the board as the site is being developed. Mr. Quintal noted the landscaping plan would be addressed in the individual site plan approvals to coincide with the individual types of businesses and needs for such. Mr. Quintal noted that they were hoping for flexibility to let each business propose its own landscaping.

Mr. Quintal referred to the RPC memo dated 12/19/02 with regard to the following items:

Items 1-3 which included topography, match lines and soils information has been provided in the revised plans. Item #4 has been addressed by adding the stamp and signature of a licensed land surveyor. Mr. Quintal noted that public overhead utilities will be installed. Item #5 regarding plans of all buildings with type, elevation, height, bulk and surface treatment and size is needed. Item #6 regarding landscaping still needs to be addressed. Item #7 regarding lighting needs to be addressed. Mr. Quintal noted he will be providing a waiver request. Mr. Quintal noted that all utilities will be overhead addressing Item #8. A traffic study has been generated addressing item #9. Mr. Quintal noted that fencing around the garbage disposal area has been added to the plans. Signs will conform to the Zoning Ordinance.

Mr. Quintal noted he has addressed the four comments presented by Jay Stevens and a package has been prepared to be sent to him.

Ms. Belcher noted she has a concern with the one entrance to and from the site. She noted that at one point discussion had taken place with Mr. Masone who owns the adjoining parcel to connect with that light industrial/commercial area.

Mr. Quintal noted that a wetland crossing is necessary for this connection and has been incorporated as a

future connection in the current dredge and fill that has been applied for.

Ms. Belcher asked if a time frame has been established for this connection and noted concern with the road length to the proposed buildings.

Mr. Cook noted that he is in favor of this connection and he will contact Mr. Masone to work on these details.

Mr. Day stated he agreed with Ms. Belcher regarding this connection and felt that it would also benefit the fire department for fire protection services to that area. He noted the connection may only need to be gravel at this point.

Mr. Fillio noted that the proposed road is actually a driveway servicing the buildings and would not be considered a public road.

Mr. Cook reviewed the history of the old MSK site and noted originally Ashlie Road was to connect as thru road to the MSK site.

The board discussed the landscaping detail and the architectural finish and style of the buildings. The board felt that this needs to be discussed in detail in order to conform to the regulations.

Mr. Smith asked for abutter comments.

Mr. Postle noted his concern with the connection of Ashlie Road to Bowley Road and the possibility of truck traffic finding it easier to exit Ashlie Road instead of navigating the Bowley Road intersection. He asked the board to consider placing "no thru trucking signs" on Ashlie Road so that the vehicles accessing or existing the site would be forced to use Bowley Road or exit the former MSK site.

Ms. Belcher informed Mr. Postle that the Board of Selectmen handle all issues regarding "no thru trucking" issues on Town roads.

The board noted concern with the 65 day time limit. Mr. Cook and Mr. Sullivan asked the board for an extension to complete this review.

Mr. Day made a motion to continue the public hearing until April 17, 2003 at 7:30 p.m. at the East Kingston Town Hall.

Mr. Fillio seconded. The motion passed unanimously.

Compliance Hearing for Jeff Caley and Gary Denson for their conditionally approved 36 unit elderly housing complex located at TMBL 16-2-4, North Road

Attorney John Ratigan and Mr. Gary Denson were present. Mr. Dennis Quintal, Civil Construction Management was present.

A report from Ms. Carriel, RPC was received along with a final report from Jay Stevens, Civil Consultants.

Attorney Ratigan noted that 3 waivers had previously been granted by the board along with 11 conditions which comprised the conditional approval. Attorney Ratigan noted that on January 2, 2003 revised condo documents were submitted and subsequently distributed to all board members for review which incorporated changes from previous board meetings.

Mr. Day asked a question regarding page 6, Article 11 regarding convertible land. Mr. Day also questioned the exclusion of "birds" as a household pet.

Mr. Ratigan explained the "convertible land" provision as it relates to abutting properties which may or may not be added to the current proposal. As for adding "Birds" to the household pet list, Attorney Ratigan explained that the household rules allow for dogs and cats, but special permission would need to be obtained for any other type of pet.

A bond amount has been established in the amount of \$610,000 which will be in a letter of credit format. Attorney Ratigan noted that the bank will not release the letter of credit until the plan has been recorded. Options for resolving this matter included Mrs. Rice meeting the representative at the Registry at the time of recording to exchange documents or allowing a five day window after recording to allow the applicant to present a letter of credit. Attorney Ratigan also asked the board to sign a paper copy of the plans so that he may take it to the bank so that they would be assured the plan has been approved.

Mr. Day made a motion to sign a paper copy of the plan so that it may be taken to the bank.

Mr. Fillio seconded. The motion passed unanimously.

The board noted the \$610,000 bonding figure included the water and septic system construction. The water testing results including quantity and quality were presented to the board. It was noted that toluene was found in the water testing, however this is assumed to be attributable to the pvc piping used to draw the water from the well. Additional testing will be performed when the well system is finally constructed. It is noted by the state that this contaminant is generally flushed from the system when the permanent system is installed.

A letter from John Daly acknowledging acceptable condo documents was received.

Mr. Smith asked for abutter comments.

Mr. Steven Davis noted that his parents were notified of the meeting, but that he is an owner. He asked about the drainage effect onto his property.

Mr. Quintal explained that the drainage report had been submitted and approved by Jay Stevens and that no additional runoff would be generated off the site, it would be contained to the site.

It was noted a letter from the Fire Department has been received and the fire suppression has been adequately addressed. The plans will need to be signed by the Fire Department.

Mr. Fillio made a motion to declare that all conditions of approval have been addressed.

Mr. Day seconded. The motion passed unanimously.

Public Hearing for Lewis Builders Development, Inc. Applicant and Centerview Hollow Land Co., LLC owner for a proposed amended site plan review for the community center located at Cricket Hill Development, MBL 8-2-19 Willow Road

Mr. Peter Lewis and Mr. Chris Frey were present representing Lewis Builders and Centerview Hollow Land Company.

Plans were presented showing a revision to the original Cricket Hill Elderly Housing Site Plan. The revision includes the removal of the existing barn which was to house the clubhouse. Instead, the applicant has chosen to raze the barn and use the existing house as the clubhouse instead of converting this structure into two units. The applicant has subsequently relocated two of the original units and added the third unit to account for the two units originally located in the house. No change in the density is being proposed.

On the west side of the house, the walkway needs to be extended to meet the sidewalk. Parking has been added and increased and a fence has been placed to hide the dumpster. A revision date has been added to the plans. The new dwelling unit has the same square footage, 1500 square feet and is an identical unit to those already proposed.

Ms. Carriel noted the drainage has not changed on the site as a result of this proposal.

Mr. Mitchell was present as an abutter and had no comment.

Mr. Day made a motion to accept jurisdiction of the plans.

Mr. Fillio seconded. The motion passed unanimously.

Mr. Fillio made a motion to approve the amended site plan as presented.

Mr. Day seconded. The motion passed unanimously.

Other Business:

Ms. Carriel discussed with the board various ways to invoke payment of her services by the applicants by instituting RSA 676:41G. Ms. Carriel will develop a proposal for the board to consider for the next meeting. This will be adopted as a subdivision regulation and will require a public hearing. The board also discussed establishing a separate non-lapsing account to hold such funds.

Mr. Day discussed the Dunlop Site Plan. It was noted that the old restaurant has been torn down and construction for the new restaurant has not commenced. It was noted the conditional approval is valid for one year which has not expired. It was noted that work may have commenced on the house and barn which may not be permitted. Mr. Shepherd was unaware of any activity within the home and barn and would investigate.

Mrs. Rice asked the board for clarification on conditional approvals and the length of the validity. It was noted that all conditional approvals are valid for a period of one year.

Dr. Marston made a motion to adjourn at 9:25 p.m.

Mr. Fillio seconded. The motion passed unanimously.

Respectfully submitted,

Susan J. Rice, Secretary
East Kingston Planning Board

Minutes Accepted:

Minutes Completed: March 26, 2003