



PLANNING BOARD
TOWN OF EAST KINGSTON
NEW HAMPSHIRE

2007-2008
James Roby Day, Jr., Chairman
Catherine Ellen Belcher, Vice Chairman

MINUTES
(Regular Meeting & Public Hearing of 20 March 2008)

AGENDA:

- 7:00PM - **Board Business**
- 7:15PM - **Continued Public Hearing** for Peter A. Riley, 47 North Road, and James R. Keegan, 59 North Road, regarding a lot line adjustment involving MBLs 15-01-12 and 15-01-05 (PB08-02).
- 7:35PM **Discussion** with Conservation Commission regarding subdivision lot configurations for Clinton Furnald, Stagecoach Road, East Kingston, (not for purposes of an application)
- 8:00PM - **Continued Board Business**
- 8:10PM - **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- Mrs. **CE Belcher**, Vice Chairman; Mr. **JR Day**, Chairman, Dr. **RA Marston**, Mr. **RA Smith**,

Mr. RA Caron, outgoing ex-officio, and new Selectmen's ex-officio David Pendell.

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

Advisors present – Mr. Eric S. Steltzer, Planner, Rockingham Planning Commission (RPC).
Lawrence K. Smith, Conservation Commission Chairman.
Raymond R. Donald, East Kingston Building Inspector.
Captain Andy Conti, East Kingston Fire Department.

Voting members –Chairman Day noted the voting members for tonight's meeting consisted of Dr. Marston, Mr. Smith, Mrs. Belcher, Mr. Caron-ex-officio, and himself.

BOARD BUSINESS

Mr. Day reviewed the handouts with the Board.

Welcome New Ex-officio. Mr. Day welcomed Mr. David Pendell as the new Selectmen's ex-officio to the Planning Board. Mr. Pendell was newly elected to the Board of Selectmen in March.

Mr. Day stated the elephant in the closet, for Selectmen, is the Planning Board because it carries an almost equal weight to what the Selectmen do on a regular basis. In terms of directing the way that the Town develops and how it views itself, the Planning Board plays a pivotal key role. Its first charge, by statute, is the Master Plan, which spells out who we are and where we are going. After the Master Plan, everything else unfolds – all the ordinances need to be backed up by what is said in the Master Plan, and the regulations reflect the ordinances, as they were approved by Town voters.

So as an ex-officio, Mr. Pendell's responsibility is considerably heavier than he may have thought it might be. He is a functioning, fully-fledged member of the Board; the State so mandates. But by virtue of being a Selectmen, the Planning Board cannot appoint an alternate to fill the ex-officio space if he is not present at a meeting. The Selectmen have to appoint an alternate for him, as only a Selectmen can fill the seat of ex-officio.

Mr. Day emphasized that it is extremely important that someone from the Selectmen's office be in attendance at all meetings to constitute a full Board. By the same token, it is also a statute that the ex-officio cannot serve as Chairman.

Barbara White. Mr. Day announced that the Secretary, Barbara White, was so excited by what she has been doing for the East Kingston Planning Board, that she had run for two positions in Newton and was now a full-fledged Planning Board member in her own Town and also a Supervisor of the Checklist. Mr. Day stated she was a glutton for punishment; they had either taught her right or wrong. He hoped she still had time for the East Kingston Planning Board.

Mr. Smith. Mr. Day informed the Board that tonight was the last formal meeting to be attended by himself, Cathy Belcher, Ted Lloyd and Mr. Smith, as they had chosen not to renew their appointments.

In Mr. Smith's case, it was the end of 35 years of extraordinary civic service to the Town on the Planning Board, twenty-seven of those years having served as Chairman. That is a tough record to beat. Our hats are off to you, Mr. Smith.

SB2. Mr. Day announced that SB2 had passed at Town Meeting, which may be an upside since the Town won't need to build a new Town Hall for Town Meeting. If the experience in New Hampshire is what it is has been up to date, few are likely to go to the deliberative sessions; they are simply going to vote the ballots. We have become, by act of legislation, an absentee legislature; that's the unfortunate reality.

You may have read in the paper that Epping tried to reverse it, and they got soundly defeated. Hampton has been functioning with a default budget because the voters just flat vote them down, and no one attends the deliberative sessions. Mr. Morales offered that Hampton had passed it this year for the first time in four years, but only because the default budget was higher than the actual budget.

So how does the fact that the Town is now an SB2 Town affect the Planning Board? It is a seat change when you think about it. Who put that SB2 into place? It's the people who aren't here, the people who don't participate in the Town. In Mr. Day's way of thinking, as a consequence, the Master Plan is something of a chimera; we are chasing phantasms. It is a construct that we would like to think we have, but it is an appearance. This concerns Mr. Day. When the snowbirds come back and start voting and attending the deliberative sessions, maybe things will change.

Town Meeting Results and Printing New Ordinance Books. Mr. Day explained that Board members would find a single page amending the zoning ordinance for them to insert in their ordinance and regulation books. Mrs. White will print copies of this amendment and insert it in all the copies of the books in the Town Office that are offered for sale. As this was the only amendment, there really is no need to reprint the books for the one small change. This will save a considerable amount of money in printing costs this year.

Mr. Day was pleased that the amendment had passed 3:1, which means the Townspeople are thinking as the Planning Board does, in these terms. In looking back, Mr. Day stated that the Planning Board has had a fairly good voting record in the past 10 years, as most of the items offered for vote at the Town Meetings have passed.

Shoreline Protection Act Revisions. Mr. LK Smith would like to update the Planning Board on the Shoreline Protection Act revisions. He will give his presentation when Mr. Day finishes going over the list of handouts.

Roby's Senior Moment. Mr. Day confessed that he had had a senior moment in thinking that Mr. Riley's mylar needed to have a signature block for the two landowners involved. He could have sworn that the Registry of Deeds had told him such was required on a mylar before they would record it. When Mr. Riley had challenged the necessity of the signature block, Mr. Day had checked with the Registry of Deeds, and they had confirmed that it was not necessary to have that signature block. They are satisfied with the Engineers stamps, Surveyors stamps, and Planning Board approval and signatures. Their assumption is that the Planning Board will have done their homework for them.

Osgood Mylar Signed and Recorded. The Osgood mylar had been received, and was now signed and recorded.

OEP Spring Conference – Mr. Day explained that he had given the application forms for the OEP Conference to Mr. Pendell and strongly encouraged him to attend. It will provide the training he needs as a new member of the Planning Board and will help him learn the “lay of the land”, so to speak. There are forums for first-time Planning Board members that are invaluable.

Topics covered include:

- ***Planning Board Basics*** – A housekeeping session is designed for new planning board members. Topics include rules of procedure, conflict of interest, the right-to-know law, and conducting public hearings and meetings.
- ***Planning Board Roles and Responsibilities***. Planning, subdivisions, site plans – do you have trouble keeping it all straight? This is an opportunity to review the relationship between zoning, subdivision, site plan, and the master plan from an experienced and lively panel. Learn the fundamentals of these basic tools of the planning process and how you can become a more effective board member.
- ***Planning Boards “Behaving Badly”***. Vignettes of planning boards making mistakes, both large and small, will be presented. Can you spot them all? Does your board do the same thing (or worse)? Can you figure out how to do things better? This session will be both fun and funny, but it will also carry a serious message: How you conduct your business has important implications for the strength of your decisions on appeal to court, and more importantly, how people appearing before your board feel about your level of expertise.

Mr. Pendell asked how often it came around. Mr. Day informed him there was a conference in the Spring and one in the Fall; but the April Conference was the big one.

Leftovers.

- ***Fees Schedules*** – Mrs. White has the materials for the fee schedules. It is presumed that the Board will get the regulations in order and remove all the fees from the regulations and ordinance book and merge them with the Selectmen’s fee schedule.
- ***Septic Design Setbacks*** – Again, Mrs. White has the folder and it is just a matter of refining the wording and getting it to a public hearing.
- ***The CIP update.*** Mr. Steltzer, Rockingham Planning Commission, has a signed contract for the CIP update. He has been working with Mrs. White on collection of materials. In theory, it should be completed by the end of June.

Shoreline Protection Act Revisions Update. Mr. Day turned the floor over to Mr. LK Smith.

Mr. Smith explained that his update deals with the Comprehensive Shoreland Protection Act, which has been around for about 20 years. Up to now, the only water body in East Kingston that this Act applied to was Powwow Pond. This is about to change and Mr. Smith will bring the board up-to date. Most of the new locations will come into effect as of April 1, unless the date gets pushed back. He passed out the new standards of the Act.

For those not familiar with the Act, Mr. Smith explained that the purpose of the Act is to protect water quality in the streams and the lakes in the state. It applies to a 250’ buffer from the high water mark of those streams and lakes. Part of the requirements are changing and becoming more restrictive. Agriculture, forestry and water-related activities are exempt; the Act deals mainly with both residential and commercial development and what happens within that 250’ strip.

Mr. Smith referenced the diagram on the back of the handout and pointed out waterfront buffer, natural woodland buffer, and protected shoreland zones. He stressed that all distances are measured horizontally from the edge of the stream, not up the slope.

Originally there was an allowance for some removal of vegetation, but it is now restricted. Natural ground cover shall remain intact and there is no cutting or removal of vegetation below 3’ in height, excluding lawns, except for the allowable footpath. Also, within 50’, stumps, roots and rock must remain intact and on the ground. All chemical applications are prohibited. Low phosphorus, slow release nitrogen fertilizer may be used

for the area that is beyond 25' from the reference line. No fertilizer, except limestone, shall be used between the reference line and the 25 feet.

Mr. Smith reported that the rest of the information on the sheets has not changed much from what it was; he wanted to go over only the main changes.

DES has come up with a point system to determine how much vegetation has to be left in the first 50', based to the size of the vegetation that is there. The point system is complicated, not wholly understood, and will be the most critical part of trying to enforce the Act. Any activities within the 250' will now require permits; this was not the case previously. When legislation to update the act was originally proposed, both the Code Enforcement and the Conservation Commission were part of that permitting process; they were in the loop to review the applications. Final legislation cut both Code Enforcement and the Conservation Commission out of the approval process, which will make enforcement a big problem. Public information will also be a big problem, to let the people know what the Act is and how they are supposed to be dealing with it.

For reasons of the lack of public knowledge, there is a move afoot in the legislature to move the implementation date from April 1 to July 1. Realtors and developers are pushing to make that happen; they would like to see the Act disappear altogether. We may learn in the next week or so if the extension was granted or not.

Mr. Morales asked if Mr. Smith knew why limestone was allowed, as it was known to raise the pH and could affect certain critters that live in and around the streams. Mr. Smith stated he did not know.

The revision will apply to all 4th order and higher streams. In the original act, 4th order streams were defined as the year-round, perennial streams at the head of the watershed. Now they are adding intermittent streams, those that don't flow year-round. That will raise the order of the streams all the way back to the headwaters in the watershed.

It presently applies to Powwow Pond in East Kingston. Now it also applies to the river, starting at the outlet at Kingston Pond and Great Pond both; all the way down river and all the way down stream to the state line will be 4th order. Great Brook, from the junction of York Brook to the Kensington Town line and on down the line to the Estey river will be 4th order. These are the ones we know about so far. They are also working on a list of current 3rd order streams that will become 4th order, and those lists should be out within two weeks. Mr. Smith suspects that several tributaries of the Powwow River and Great Brook in East Kingston will be on the list. Mr. Smith acknowledged the Act, with all the new restrictions, would mean a lot more oversight for the Planning Board pertaining to developer's proposals.

Mr. Day asked if any of the setback numbers from septic systems were different from the original Act. Mr. Smith stated he did not see any change in the numbers. Mr. Donald pointed out that new permits from the state would be needed for existing homes along the waterfront and noted those permits could be several thousand dollars.

Mr. Smith stated that there would be a meeting sometime in May, and asked Mr. Steltzer if he knew when. Mr. Steltzer was not sure when or where it would be presented. Mr. Smith reiterated that this information needed to be gotten out to the public as soon as possible.

Mr. Caron asked about the statement "*Projects that receive a permit under RSA 482-A do not require a shoreland permit.*" Mr. Smith explained that was the Dredge and Fill permit.

Mr. Day thanked Mr. Smith for the information presented.

Note from the Selectmen's Administrative Assistant with regard to the Pound School Building. Mr. Pendell has requested a meeting with all interested parties on putting together a schedule for use of the Pound School. So far the Historic Committee, the Planning Board, Friends of the Library and the Recreation Department have expressed an interest in using the Building for meetings. Planning Board members are invited to attend this meeting so a schedule can be worked out.

Mr. Day stated that the Pound School was a historical building and as such should be utilized. He did not want to be misunderstood as he also thought the Town Hall, as another historical Building, was the perfect place in which to hold the Planning Board meetings under normal circumstances. In fact, with the exception of one time, it had proven more than adequate to hold everyone attending.

CONTINUED PUBLIC HEARING FOR PETER A. RILEY, 47 NORTH ROAD, AND JAMES R. KEEGAN, 59 NORTH ROAD, REGARDING A LOT LINE ADJUSTMENT INVOLVING MBLs 15-01-12 AND 15-01-05 (EKPb#08-02).

Mr. Day opened the continued public hearing for a proposed lot line adjustment for Peter A. Riley, 47 North Road, and James R. Keegan, 59 North Road, regarding a lot line adjustment involving MBLs 15-01-12 and 15-01-05. Mr. Day noted that both Mr. Riley and Mr. Keegan were present and invited them to come up front, nearer the Board. Mr. Day introduced the Board members.

Mr. Riley explained that his request was quite straightforward. He has 10 acres of property, a previously approved lot, and he would like to transfer it to Mr. Keegan by virtue of eliminating one lot line and adding another. The original lot was owned by the Tasha Trust, who had applied for a subdivision for a larger parcel out back, which included Parcel A. Parcel A had been incorporated into Mr. Riley's original 3-acre tract and Mr. Riley had not been aware that the original lot lines had been consolidated at that time, as there were separate deeds for the 3-acre and 10-acre parcels. They were consolidated for tax purposes.

The purpose of his application before the Board today is to transfer that 10.05-acre parcel to Mr. Keegan. The parcel is presently in non-current use, and most of it is wet. Mr. Riley's understanding is that Mr. Keegan intends to keep it in similar or the same usage; currently it is in non-current use.

Mr. Riley stated that they had complied with all the requirements of the Board's Feb. 22nd letter. He had provided a copy of Mr. Keegan's deed and a letter of authorization; the two additional abutters had been notified, as well as the surveyor/engineer; the proper-sized copies of the plan had been submitted; the flood hazard boundary is noted across both properties; and the location of existing buildings is shown on the plans.

The only item that had been not complied with was the inclusion of the building set-backs from the property lines for either lot. Mr. Riley had submitted a written waiver request for the set-backs in light of the substantial expense involved to insert those setbacks on the plan. To support his request for the waiver, it is his opinion that both properties have previously been fully approved by the Town, with the respective existing structures having been in existence for many years, and have been previously approved by the Building Inspector. The setbacks had been satisfied at the time both homes were built. The requested lot line adjustment will not affect the respective lots' compliance with existing Town setback regulations in any way. In light of this information, Mr. Riley hoped the Board would consider that request a non-issue.

Mr. Day confirmed with Board members that they all had the most current information consisting of Mr. Riley's new copy of the plan and the waiver request for the lot set-backs for buildings; they acknowledged they did. Mr. Riley clarified that the waiver request was not for the lot set-backs, it was a waiver request for the plan requirements to *include* the lot set-backs in accordance with the lot line adjustment checklist.

Mr. Day opined that except for the set-back requirements, all the other requirements had been met. He asked if any Board members thought otherwise or if they had any other concerns; the question is whether or not the plan is complete enough to take jurisdiction.

Mrs. Belcher verified with Mr. Steltzer that she had his latest comments on the plan. Mr. Steltzer indicated that Mrs. Belcher had the latest copy of his published review, but since he had received the new information on March 5th, he did have additional comments.

Mr. Day entertained a motion to invoke jurisdiction.

MOTION: Mrs. Belcher **MOVED** to invoke jurisdiction on the lot line adjustment for Peter Riley and James Keegan as presented. Mr. Caron seconded, and the motion passed unanimously.

Mr. Day stated that the 65-day clock had now begun ticking.

The next item on the agenda was to consider the waiver request, which relates directly to the lot line adjustment checklist. The last item on the checklist, Appendix G is "*Building setback from property lines and from poorly and very poorly drained soils where appropriate.*" Mr. Riley had just made the argument for not including that, given the location of pre-existing buildings and the history of the lots. Mr. Day asked the Board for discussion.

Mr. Steltzer's understanding was that the setbacks could not be determined because the property lines are unsure. Mr. Steltzer was concerned that the error of closure certification was not included on the plan. Mr. Riley stated that Mr. Steltzer had misunderstood why the waiver was being asked for; the property lines were not unsure. The waiver was being requested so as to not have to go to the expense of having the set-backs inserted on this plan since both properties had already been previously surveyed and the setbacks existed on the original plans for the properties. Mr. Riley could not understand why this was such a concern for Mr. Steltzer, who was still concerned that the error closure certification was not included on this particular plan. Again, Mr. Riley iterated it was on the prior plans.

Mrs. Belcher recalled that when she had brought plans to the Registry to be recorded, they had looked for the error of closure notation on the plans. Mr. Riley stated he had spoken to the staff at the Registry and they had indicated they would accept the plan as recordable as is was. Mr. Day stated that was hearsay information, and not the question before the Board. The question was if the Board would grant the waiver from including the set-back on the plan.

Mr. Riley stated that the purpose and intent of that requirement for plans submitted to the board application for lot line adjustments have to do with whether or not new construction have will create a violation of existing set-back requirements for the Town. He stated again that the existing plans, previously approved by the Town, have closure requirements on them.

Mr. Day indicated that Mr. Riley was making it more difficult than it needed to be. Mr. Day was suggesting to the Board that that particular requirement is fairly clear-cut with regard to lot line adjustments and any other kind of subdivision or site plan. The question to the Board is whether or not they feel this application can go forward without those drawn on the plan. Mr. Day asked for any other comment or questions from members of the Board; there was none. Mr. Day asked the Board if this application lent itself to the Board favorably considering a waiver.

Mrs. Belcher stated she would consider the waiver based on the location of the properties right now. In her opinion, looking at the presented plan, the set-backs were clearly within the requirements. She also noted that the set-backs were separate to Mr. Steltzer's error of closure certification concern. It was Mrs. Belcher's opinion that the Registry would deal with that and if it was required, they would not accept the plan for recording.

There being no further discussion, Mr. Day entertained a motion to grant the waiver.

MOTION: Mr. Caron **MOVED** to grant the waiver to the provision in the lot line adjustment application checklist regarding building set-backs. Mrs. Belcher seconded, and the motion passed unanimously.

Mr. Riley noted that he thought it was in accordance to what the Town was looking for in respect to land in the Town. It was his understanding that the property would stay in non-current use, in conservation, and he noted it was good open space and that there were deer and other sorts of wildlife on the property.

Mr. Riley stated that Mr. Keegan has been a great neighbor all the years the Riley's had lived there. Mr. Keegan is responsible and takes good care of his property. Mr. Riley also stated that if it weren't for his current family situation, he would not be leaving East Kingston.

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

Mr. Day reviewed the proposed list of conditions.

1. Including a notation on the plan to the effect that a waiver from Subdivision Regulation Appendix G “building set-backs from property lines requirements” was approved by the Planning Board.
2. Application of growth management or impact fees as appropriate.
3. Final mylar, together the full-sized and 11x17 copy of the final plan, to be submitted to the Planning Board for chairman signature and recording.
4. All outstanding or future fees and charges due to the Town in connection with the subdivision, including but not limited to the reviews of Town Counsel, Town Engineer, RPC Planner, Building Inspector, and Fire Department, and administrative costs incurred by the Town to be fully discharged.

Mrs. Belcher asked Mr. Steltzer what his concern had been previously. He reiterated that his concern was the lack of the error of closure notation on the plan. His understating was that the notation that was on the plan pertained only to Parcel A. Mr. Riley stated that he was mistaken; it referred to the previously surveyed parcels of the property owners, Messer’s Riley and Keegan. Mr. Riley iterated that the original Parcel A had been surveyed by Stockton Services and was approved by the Planning Board. Mr. Day stated he would be concerned if this was a first time around, but this was an existing property.

Mr. Riley then stated he had received an invoice from the Planning Board and he thought the charges to be excessive for two separate reviews of the plans and corresponding memos. Mr. Riley was addressing this as paying all the fees was included in the conditions. Mr. Day explained that the charges were from the Rockingham Planning Commission and that this hearing was not the forum in which to discuss that item. That was a separate matter.

Mr. Day entertained a motion for conditional approval for the Riley and Keegan lot line adjustment, EKPB #08-02.

MOTION: Mrs. Belcher **MOVED** to grant conditional approval for a lot line adjustment for the Riley Family Trust and the Keegan Trust, EKPB #08-02 with the four conditions outlined by the Chairman. Mr. Caron seconded, and the motion passed unanimously.

The 65-day clock has stopped.

Mr. Day reminded Mr. Riley that he will need to include a note on the plan to the effect that a waiver from Subdivision Regulation Appendix G “building set-backs from property lines requirements” was approved by the Planning Board.

Mr. Riley and Mr. Keegan thanked the Board.

Mr. Day closed the public hearing.

Mr. Day noted that the April Board will be a new Board. Mr. Day stated that since the Board had Mrs. White trained correctly, she will provide superb handoff and could handle it. She will be very important to whoever constitutes the new Board.

Minutes. Mr. Day asked if there were any changes noted to the 21 February minutes; there were no comments or questions offered. Mr. Day reviewed that Mr. Morales, Mr. Lloyd, Mrs. Belcher, Mr. Sullivan, Dr. Marston and he had been present at the February meeting. Mr. Day entertained a motion to approve the minutes.

MOTION: Mr. Morales **MOVED** the Planning Board approve the 21 February 2008 minutes as written. Mrs. Belcher seconded. The motion passed, unanimously.

DISCUSSION WITH THE CONSERVATION COMMISSION REGARDING SUBDIVISION LOT CONFIGURATIONS (NOT FOR PURPOSES OF AN APPLICATION) FOR CLINTON FURNALD.

Mr. Day opened the discussion and explained that this was a “discussion only” session and not an actual subdivision plan hearing. Mr. Day explained that Mr. Furnald owns the strip of land on Pine Woods that gets into the backland and the land that wraps around and touches Stagecoach Road. He is proposing to the Conservation Commission to put the land into conservation. The Conservation Commission does not agree with what he proposes to do, and have asked the Planning Board to look at it.

Mr. LK Smith, Conservation Commission Chairman, stated that the Commission’s concern was that Mr. Furnald was proposing a cul-de-sac off a cul-de-sac. Also, one of the lots he was proposing was a back-lot. They had suggested that he make a loop road at the Pine Woods right-of-way, thereby eliminating the cul-de-sac off a cul-de-sac and back-lot situations. He was going to speak to Jones and Beach about it or try to draw it out himself.

Mr. Smith had spoken to Town Counsel in regard to the back-lot issue in relation to Matt Blunt’s situation, which has a similar back-lot question. He had faxed a copy of the ordinance and a copy of Mr. Blunt’s plan with an explanation of what he wanted to do and asked his opinion. Town Counsel had read through the ordinance and the requirements for a back-lot, and his opinion was that if the back-lot is on a lot of record, it is okay. This is the same opinion as the previous Town Counsel had had in the earlier situation.

Mrs. Belcher iterated that that was not the intent of the ordinance. When the Planning Board wrote it, the intent was not to say you could build a lot and then back-lot off that lot. It was an existing lot of record in 1996, not one that was created off a lot that was in existence in 1996. It was one that was not in record at the time; to become of record as its own individual lot. That’s how it was written. Mr. Smith answered that Counsel was not taking it that way. Mrs. Belcher replied then they (the Planning Board) might as well throw it away because that interpretation really killed the intent of the ordinance.

Mr. Smith said that Counsel stated that the back-lot does not have to start on an existing road; it can start on a proposed road. Mrs. Belcher stated it cannot be on a proposed road. It has to be on an existing road and has to be on the lot of record that was existing in 1996; not taking the big lot and chopping it up. Then those lots are no longer considered lots of record in 1996. They are new lots of record proposed for whatever year they are proposing them in; that takes away the back-lot provision. The intent was so people did not have to put in a road to put one house off a back-lot; they would not have to put in 10 houses. Now they are getting both, a back-lot and the road.

Mr. Smith stated that may have been the intent, but it was not the way the attorneys were reading it. And because it is ambiguous and we have a precedent that is backed up by Counsel, that’s the way it will be interpreted unless someone rewrites the ordinance.

Mr. Day stated that if the plan the Board was being asked to review was the cul-de-sac off the cul-de-sac, then this is not doable in and of itself. It is already at 800’ by the time you get to Mr. Furnald’s property, so there is not more room for a cul-de-sac.

Mr. Morales stated that there were other problems with the layout as well. One lot was less than 125’ and lot 6 has a large body of water and they were not sure there was enough upland to build anyway. If Mr. Furnald made the adjustments using the loop road, he could eliminate the back-lot and circumvent the other problems as well. He may not end up with as many lots, but given the circumstances of those lots, they might not be counted as lots anyway.

Mrs. Belcher asked Mr. Smith what the methodology was that was used for calculating the worth of lots considered for conservation easements; was it a certain amount per lot? Mr. Smith replied that the appraiser comes up with a figure, and the Conservation Commission compares it with different appraisals for other properties with the same characteristics to see if they are reasonable. For example, if one property comes out \$60,000 an acre and another comes out \$35,000, why is there a difference?

Mr. Day stated that as far as he was concerned, the plan the Board has been asked to look at was not doable. If Mr. Furnald wants to reconfigure it, that is another matter. The Board agreed.

Mr. Day closed the discussion.

CONTINUED BOARD BUSINESS

Carmen's Restaurant. Mr. Donald, Building Inspector, reported that Carmen's Restaurant was considering reopening. He suggested the Planning Board might want to send a letter to Mr. Dunlop letting him know he needs to come before the Planning Board with a request for a new tenant, as Site Plan Review Regulations require a Planning Board review of any change in use, ownership, or tenant.

Thank you. Mr. Day thanked the Board members for their many years of good service and stated he had enjoyed working with all of them. He said they were a superb Board, but it was time for him to move on. Mr. Morales stated he personally would miss each of them and that they would leave a void.

Mr. Day thought the Board was positioned very well with the ordinances and regulations, and the condition of the master plan.

ADJOURNMENT:

MOTION: Dr. Marston **MOVED** the Planning Board adjourn. Mr. Smith seconded, and the motion carried unanimously at 8:10 pm.

Respectfully submitted,

Barbara A. White
Recording Secretary

J. Roby Day
Chairman

Minutes approved April 18, 2008

There were no changes offered to the February 21 st minutes.
