

Town of East Kingston Planning Board Minutes
March 21, 1996

FILE

Attending Members: Chairman Richard Smith, Catherine George, J. Roby Day, Dr. Robert Marston (7:42).

Others Attending: Alan Mazur - Deputy Fire Chief, Sarah Campbell - RPC Circuit Rider. East Kingston Residents: Ed Johnson and Gary Heinz.

Chairman Richard Smith called to order the East Kingston Planning Board Meeting at 7:35 PM.

Chairman Smith opened discussion on the proposed subdivision plans submitted to the Selectmen's Office by Mr. Glen J. Tebo.

The Board reviewed the Subdivision plans and noted the three proposed lots.

Chairman Smith stated that Mr. Tebo has addressed the East Kingston Planning Board before regarding the same proposed subdivision plans.

Mrs. Sarah Campbell noted that it was her recollection that when Mr. Tebo came before the board in 1986 or 1988, that a portion of the proposed subdivision property was unbuildable. Mrs. Campbell asked that the minutes to that particular meeting(s) be researched for information in hopes to clarify her recollection.

Mrs. Catherine George stated that she too, recollected an issue of unbuildable property with Mr. Tebo.

Chairman Smith noted only one entrance to the proposed subdivision in Kingston.

Mrs. George stated that because the entrance was indeed in Kingston, the trash pick-up, school buses, fire equipment and other town services would need to travel out of East Kingston, into Kingston and back into East Kingston to reach the proposed subdivision.

A subdivision map that was submitted by Mr. Tebo in August/September of 1995 was located from the past minutes file.

In reviewing the said map from August/September 1995, Mr. Roby Day inquired as to what changes have been made with the current proposed plan in comparison to the past proposed subdivision plans.

Chairman Smith answered that nothing has changed except that the newest plans were completed by a surveyor.

Minutes from the Planning Board Meeting held on September 21, 1995 were read as follows:

Mr. Glen Tebo, together with his wife were present for a preliminary discussion on a subdivision of 7.5 acres located in East Kingston. Mr. Tebo said he wanted to subdivide the property surrounding the existing cul-de-sac into three house lots. The access to this property is through Grand View Terrace in Kingston.

Mr. Tebo mentioned that he appeared before the Kingston Planning Board for preliminary discussion without any problem. He added that he checked with the school regarding the bus route, and it would be no problem for the bus to turn around in the cul-de-sac. Mr. Tebo also approached his abutters with the intent to purchase a right-of-way, and was unsuccessful.

Mr. Berridge referred to a Planning Board meeting that took place in December 1988, where Mr. Tebo applied for a lot line adjustment, and was granted conditional approval provided a note was added to the plan stating the lot was buildable.

It was at this time that the Mrs. Campbell felt the word buildable may be a typing error. It was her recollection that the lot was classified *un*buildable.

Paragraph C. of Section IV - General Requirements for the Subdivision of land was addressed pertaining to the 1,000 feet requirement on a dead-end or cul-de-sac. It was noted that this requirement was for safety issues, when considering fire and rescue having access, in the event of an emergency. Other safety considerations were during mail delivery, snow plowing, trash removal and school bus transportation.

Mr. Berridge pointed out that the fire hydrant, or some water source would need to be available per the East Kingston ordinance, and asked Mr. Tebo if he were familiar with what type of water source was available to him in the cul-de-sac area.

Mr. Lawrence Smith thought a fire pond existed in Kingston in the vicinity of Giles Road.

Mr. Richard Smith felt the Kingston Planning Board should also be contacted for approval, and Mrs. Campbell agreed. Mr. Lawrence Smith pointed out that if this were declared a Regional Impact, the Town of Kingston would be considered an abutter, and the Rockingham Planning Commission would also need to be notified.

In the event a formal application had not been received from the Tebo's, a decision to act on declaring this a Regional Impact would not take place at this time. It was noted, in the event of Regional Impact project, the RPC will provide an unbiased rundown on the potential problems.

Section V - Scattered and Premature Subdivision was discussed with regard to the potential problems that seemed obvious with the proposed subdivision. The area of the cul-de-sac seemed a potential problem for more than one fire truck at a time to access any of the properties. It was noted that a need for a fire cistern was paramount. Reservations were voiced with regards to Fire, Police and School Bus access from Kingston, together with the fire and safety concerns.

Discussion was endless, and it was recommended to move on to the next business. Mrs. Campbell suggested to Mr. Tebo, that if he submitted a formal application, to provide a copy of the plan referred to earlier pertaining to the Lot Line Adjustment back in December of 1988. She added that discussion at this point should have provided some feedback on the areas to think about and address, and that at a formal application stage, all decisions are binding.

Mrs. Campbell inquired as to the Kingston's Planning Board Legal Notice in the Carriage Towne News regarding a public hearing for a Lot Line Adjustment with Mr. Tebo.

After reviewing the proposed subdivision maps, it was not clear as to the area of the proposed LLA.

Chairman Smith stated that when Mr. Tebo put a couple houses into the cul-de-sac, he (Mr. Tebo) was told that one area of the property was not buildable, and he was refused when asked to build houses on his land located in East Kingston because it was too far away for East Kingston to service the property [as its entrance was in Kingston].

It was Mrs. George's opinion that the proposed LLA was for the right-of-way. Chairman Smith agreed it was a possibility.

Mr. Day stated that he did not see where anything had changed.

Mrs. Campbell replied that the only thing that has changed is that the discussion with Mr. Tebo earlier was only a preliminary discussion and nothing was binding. The next meeting with Mr. Tebo will be a public hearing and those results *are* binding. Mrs. Campbell again stated her desire to re-read the Planning Board minutes from 1988 and the 1988 plan that has the unbuildable lot on it.

The discussion of the proposed subdivision submitted by Mr. Tebo ended with the intention to research past proposals and meetings regarding Mr. Tebo's current subdivision proposal.

Minutes from February 15, 1996: Chairman Smith inquired as to whether any board member wished to note any changes or corrections to the February 15, 1996 minutes.

MOTION: Mrs. George motioned to approve the Minutes of February 15, 1996. Dr. Robert Marston second. The vote passed unanimously. (4-0)

Chairman Smith reviewed the following correspondence:

1. Workshop for Planners at UNH
2. Museum of Family Camping in Bearbrook Reservation, Richmond, NH
 - A. Looking for 20 acres of donated property to relocate the existing museum located in Richmond.
3. Office of State Planning Annual Spring Conference, Saturday, May 18th.

Mr. Day stated that he has signed up for the Annual Spring Conference and was planning to attend.

4. Land Conservation Conference on April 20th.

Chairman Smith opened the public hearing for Master Plan - Housing Chapter at 8:00 PM.

Mrs. Campbell stated that she made a change on page 13 (see attached) of the Housing Chapter, item 7: Housing Growth. The percentage of 5.6% (paragraph 4) changed from 9.4%. Mrs. Campbell also noted the recommendation on page 20, was edited, omitting the actual district.

Mrs. Campbell noted another change on page 13: re-wording the second to the last sentence of the page for clarification purposes.

MOTION: Dr. Marston motioned that the Planning Board accept the Housing Chapter of the Master Plan. Mr. Day second. The motion passed unanimously. (4-0)

The attending Planning Board members signed the Housing Chapter submitted by Mrs. Campbell. It was noted that one copy be placed on record with the Town Clerk.

Mrs. Campbell stated that she would entertain the board with portions of the Transportation Chapter for the April 18th meeting. She also requested that she receive an official written schedule or plan of improvements from the Selectmen regarding the Transportation Chapter, (if one is available).

It was noted that the next scheduled meeting for the **Master Plan** would be April 4th, 7:00 PM at the Town Offices.

Bradbrook (Pinebrook Spring Water) Update: Mrs. Campbell conveyed to the board that the attorney representing Bradbrook, went to the registry and received approval, conditional on there being no site changes in East Kingston, that the Bradbrook owners need not address the East Kingston Planning Board (although the Bradbrook property extends into East Kingston).

Mrs. Campbell continued that the Kingston Planning Board, (on advice from their consultant/ geo-hydrologist), will require that the applicants monitor the water table during the dry season, (that not being until August). In the meantime, the applicants will be allowed to pump 60,000 gallons a day, which is three times what is being pumped now and only half of what the applicants propose to pump.

Mr. Day stated that the Kingston Planning Board met on Tuesday, March 19th and issued a temporary conditional approval to the applicants, pending the monitoring/testing to be executed in the dry season (August). Mr. Day explicated that the conditional approval is to pump only 60,000 gallons a day until the Kingston Planning Board is satisfied that they (the applicants) are not adversely impacting the aquifer.

Mr. Day continued that the Kingston Planning Board has asked the East Kingston Planning Board to assist in identifying the wells in East Kingston, that may be affected. Locating the well and determining the depths of the wells, so that when this test is executed in August, the Kingston Planning Board will have the information they need to develop plans as to what areas to monitor.

Mr. Day further explained that the Kingston Planning Board is focusing on a one-hundred-sixty acre recharge area that was mentioned by their geo-hydrologist.

At this time the board inspected a map of the Bradbrook well sites provided to Chairman Smith by the Kingston Planning Board.

The board agreed that the map at hand did not represent the full one-hundred-sixty acres as described above.

Mr. Day stated that the Kingston Planning Board is focusing on the one-hundred-sixty acre recharge area to look for existing wells that may be a part of this test.

Chairman Smith stated that Bradbrook owns approximately ninety-nine acres (out of the proposed focus area of one-hundred-sixty), thus demonstrating that the Kingston Planning Board is focusing not only the Bradbrook property, but abutting properties as well.

Chairman Smith continued to explain that the map (at hand), is revealing only the area that Bradbrook claims it will be using because the wells are located there. Chairman Smith noted that by looking at the map, it appears that one of the pumping wells may in fact be in East Kingston.

Mr. Day stated that in essence, the Kingston Planning Board is saying that they will oversee all the acreage, including the areas in East Kingston. Mr. Day further stated that the one-hundred-sixty acre area must first be clearly identified before the East Kingston Planning Board can assist in the location of the wells that may be potentially affected. It was Mr. Day's understanding that Larry Smith (E.K. Conservation Commission), had that information.

Mr. Day added that as soon as that information was clarified, then the East Kingston Planning Board could go ahead and locate the wells and get that information to Kingston, so then the East Kingston Planning Board can be a part of the test development taking place this springtime.

Chairman Smith stated that a Kingston Planning Board member told him that another well was going to be drilled, (if it hadn't already), and it appeared that well would be located in East Kingston, and if that were the case, then the applicants would need to address the East Kingston Planning Board.

Mr. Day stated that the applicants made no indication that there would be more drilling.

Chairman Smith inquired as to how many wells the applicants stated they had.

Mr. Day replied that the applicants stated they had only three wells and they are all located in Kingston. Mr. Day continued that the Kingston Planning Board had at a previous meeting, allowed the applicants to pump only five days a week. At the last meeting, the allotted days for pumping changed from five days to six days with out any explanation or notice. This surreptitious change of days resulted in Mr. Day's increase in concern for East Kingston's participation in the matter.

Chairman Smith noted that the map at hand was not sufficient enough to determine the affected wells as no boundaries or lot lines were present.

Mr. Day reiterated that the location of the potentially affected wells can be determined as soon as the one-hundred-sixty acre recharge area is identified. Mr. Day stated that the information the board seeks must be available, it's just a matter of getting it.

It was Chairman Smith's impression that the information should be available at the Kingston Town Office.

Mr. Day stated that he would ask Larry Smith's assistance in retrieving the information the board desires.

Chairman Smith noted that the nearest wells in East Kingston that may potentially be affected, are the ones over on Brandywine Drive. Other wells that may be affected are in Kingston, where the back of some of those lots are in East Kingston. Chairman Smith continued that if Bradbrook is allowed to keep on growing and pumping water, Kingston will find out who's out of water, [by drying up wells] and it would be a shame to let that happen that way.

Mr. Day stated that it was his opinion that the Bradbrook owners have the Kingston Planning Board "over a barrel".

Chairman Smith again stated that a large portion of the Bradbrook property is located in East Kingston.

Mr. Day noted that 5/8 of Bradbrook's property is located in East Kingston, (fifty-eight acres in East Kingston and thirty-four in Kingston). Mr. Day continued that the wells are located in the thirty-four acres in Kingston.

Chairman Smith stated that the area located in East Kingston is large enough to build twenty houses. Chairman Smith then noted that at one time the state would not give them (developers /property owners at Bradbrook location) a permit to come in on a state road, but now the State will give the tractor trailer trucks permits to go in and out of the same property. The State claimed it was too dangerous to have a housing development there. Is it any safer having twenty tractor trailer trucks entering and exiting the same "dangerous" location?

Community Questionnaire: Chairman Smith inquired as to an update on the Community Questions discussed in the February 15th Planning Board meeting.

Mr. Day responded that he and Mrs. Marden, at the Selectmen's office, have just completed attaching the questionnaires to the Inventory Tax Form released that day. Mr. Day explained that the questionnaire was almost verbatim to what the board reviewed last month. Although the questionnaires are in an essay form, the data is doable.

Ed Smith Cistern Update: Dr. Marston questioned the cistern requirements of Mr. Ed Smith. It was the impression of Dr. Marston that a cistern should be installed before Mr. Ed Smith built another house on Giles Road. He noted that a new foundation was being dug at this time.

Mrs. Campbell stated that Mr. Ed Smith was to install a cistern/fire pond after he finished his eighth house and before he began the ninth.

Dr. Marston stated that there was only one lot left after the one Mr. Ed Smith is currently digging. Dr. Marston continued to say that the previous Building Inspector may not have followed through with Mr. Ed Smith and enforced Section IV.O- General Requirements for the Subdivision of Land / Adequate Fire Protection.

Mrs. George asked if the Selectmen or the current Building Inspector were informed of this.

Chairman Smith inquired as to the where-about of the BI and noted that he was absent at this meeting as well as last months meeting. Chairman Smith continued that the BI's presence is needed at the Planning Board meetings for informational reasons.

Mr. Day stated that he would be seeing the BI in the morning and would get current information regarding Mr. Ed Smith's status on the fire protection matter.

Deputy Fire Chief Alan Mazur noted that the cisterns that are currently installed are working.

Mrs. George asked if the Fire Department could issue a Cease and Desist Order should Mr. Ed Smith refuse to comply with the Fire Protection Ordinance.

Mr. Day stated that he would investigate that avenue. It was noted that although the Planning Board Secretary didn't have the specifics, this issue has been addressed recently in the Selectmen's office. It was also noted that the Building Inspector was aware of this situation.

Growth Control Management Ordinance: Mrs. Campbell reviewed an Interim Growth Control Management Ordinance (see attached) for the Planning Board's consideration. Mrs. Campbell went on to explain that the Growth Control Management Ordinance was adopted in November of 1987. In November of 1988 the town adopted what we have now in the books.

Mrs. Campbell continued that the IGCMO is temporary measures to halt growth within a town and it would expire in one year. Danville and Sandown both recently adopted one.

Mrs. Campbell explained the first two pages are general information that the board needs to be aware of as they consider adopting such an ordinance. The draft is similar to the old ordinance and some of the fact findings are taken from the Master Plan.

Mrs. Campbell stated that she still needed to investigate the new changes i.e.: tax rate, budget, uncollected taxes etc. Also stated was the need to investigate the census.

Mr. Day stated that the school did it's own growth projection and came up with numbers that were much lower than NESDEC. Mr. Day noted that Kim Casey was the Chairman of that committee.

Dr. Marston asked if the housing study has shown that East Kingston has taken on more houses than the surrounding towns.

Mrs. Campbell replied affirmatively and added that as of December 31, 1995, the total number of new houses built in East Kingston was sixteen.

Mrs. Campbell then addressed the equitable distribution paragraph (see attached page 2 of draft). She stated that there is usually a clause in the provisions of equitable distribution that prevents the situation where one person or company tries to claim all available permits. It was Mrs. Campbell advice to replace the percentage of total permits available (as shown), with an exact number.

Chairman Smith stated that Mrs. Campbell should get a copy of the study conducted by the school that included the number of students and projected number of students. The school started with taking a census of the children in town ten years ago. The last part of the ten years, no one bothered to take any census and the school relied on the NESDEC figures. Now the school is back to

doing their own census and they have a more accurate number how many kids they will have in school. It would be a good idea for the board to have a copy of this study to work into the plan.

Chairman Smith added that Mr. Donald Clark should have a copy of that study.

Mrs. Campbell stated that in her opinion, if the total number of permits available is sixteen, then no single entity should be issued more than three.

Mrs. Campbell directed the board's attention to item number nine of the General Information page. Mrs. Campbell stated that she was in favor of some ordinances being written with thresholds. It makes sure the ordinance only goes into effect when it is needed.

Mrs. Campbell also noted that the threshold is a sensitive subject with the Supreme Court and you need to walk a fine line with it. She further explained that if the school was a problem, then you could declare the threshold to be when the school's enrollment reaches a certain number, and when it reaches that number, the ordinance will kick in. As long as the enrollment is below that number, then the ordinance will not be in place.

Mr. Day inquired as to whether the board was seeking to put such an ordinance into place in the near future.

Mrs. Campbell explained that at the Master Plan meeting it was discussed to hold a public hearing in which such an ordinance could be adopted.

Chairman Smith noted that such a meeting could take place in September with the primary elections or in November with the general elections.

Mrs. Campbell noted that there may in fact be a statute that prohibits special town meetings during the general elections. She also noted that further information needs to be collected before the final draft.

Mrs. Campbell strongly advised the board that the Selectmen/Town Council should review the ordinance before it is adopted.

Mrs. Campbell then distributed copies of the old interim ordinance to the board members for comparison to the new draft. Mrs. Campbell continued that the old interim was written by Mr. Scott LaPointe and herself.

Mrs. Campbell reiterated that the purpose of such an ordinance would be to stave off the existing growth while updating the CIP and tailor the Growth Control Ordinance, (a different GCO) as the one in effect now is not satisfactory.

Mrs. Campbell continued that there are two kinds of growth control ordinances, one interim, expiring in one years time and the other regular growth control ordinance which may regulate and control the time of the growth. Mrs. Campbell then read excerpts from RSA 674: 22 Growth Management; Timing of Development and RSA 674:23 Growth Management; Interim Regulation.

When asked what direction Mrs. Campbell would like to see the town take in the matter of Controlled Growth, she replied that she has a philosophical difference of opinion on the ordinance. She continued that the courts might say that since you limit your growth to 4% and you carry over unused building permits, (and because you have carry-overs every year), demonstrates that you don't need this growth control ordinance.

Mrs. Campbell further explained that she hesitates in writing a new ordinance because the one in place now is not working.

Dr. Marston stated that he was never in agreement to carry over the building permits each year. Dr. Marston then added that the only reason it was done, was because it was mandatory.

Mrs. Campbell agreed that the board was not in favor of the carry over.

Mr. Day asked that if the board is required to carry them over, then what other option is available.

Mrs. Campbell stated that 31% of the houses built in the last five years, show that the controlled growth plan is not working.

Chairman Smith stated that if the board were to eliminate the controlled growth ordinances on the books now, we could trust the luck. People could come in and get a permit to build a house, and as long as a big developer didn't come along, there would be no carry over. It would be a lot easier than trying to write another ordinance that wouldn't work [after it is written].

Mrs. Campbell stated that she needed more information before the ordinance was ready for a public hearing.

Rockingham Planning Commission Contract: Mrs. Campbell presented Chairman Smith with the proposed contract for the continued on-site Circuit Rider Planner assistance for the next year. Mrs. Campbell noted a typing error on the number of hours on page one. The correct number of eleven hours was correctly recorded on page two of the contract. Mrs. Campbell asked if the chairman wanted her to have the OSP retype the contract, or could she correct it herself.

Chairman Smith stated that her written correction would be acceptable. It was noted that Chairman Smith signed the contract and that the contract would be forwarded to the Selectmen for their signatures.

Family Camping Museum: Chairman Smith asked if Mr. Day would forward the Family Camping Museum request (for a donation of twenty acres) to the Selectmen for consideration of the town owned industrial property located on Haverhill Road. Chairman Smith noted that the industrial property is thirty acres, the Family Camping Museum may be interested. He continued that the industrial property is not in use.

MOTION: Dr. Marston motioned to adjourn at 8:50 PM. Mrs. George second and the motion carried. (4-0)

Respectfully Submitted,

Catherine Belcher