

TOWN OF EAST KINGSTON, NH  
PLANNING BOARD MEETING MINUTES  
March 25, 1999

FILE

AGENDA

- 7:40 Gary Hinz– 76 Main Street Home Occupation Proposal – Public Hearing  
8:00 Dean Howard Construction – Sanborn Road Subdivision – Public Hearing  
8:30 La Noria Dev. Corp./Thomas Gage – Powwow River Road Subdivision – Continued Public Hearing  
9:00 Debbie Feather – Main Street Site Plan Review Proposal - Discussion

Members attending: Richard A. Smith Sr. - Chairman, Edward C. Johnson – Vice Chairman, Raymond R. Donald– Ex-officio, Dr. Robert Marston, and Alternates Peter A. Riley and Robert Nigrello (7:55PM).

Absent: Beverly A. Fillio.

Others attending: Sarah Campbell– RPC, Glenn P. Clark – Building Inspector, Lawrence K. Smith – Conservation Commission Chairman, Tom Gage, Dean Howard, James Levelle – LLS, Charlie Zilch, Marjorie & Merrill Damon, Dennis Quintal, Nancy Reiss, Eva Smith, Jan Smith, Amanda & Stanley LaShoones, Larry Erickson, Kevin Fitzgibbon, Steve Fifield, Mickey Sinclair, Bob Simmons, Michael & Diane Duclos, Donald Haselton, Nancy Fredricks, Becky Hanna – Seacoast Newspapers Correspondent, and other members of the public who did not address their concerns..

Chairman Smith called to order this March 25, 1999 public planning board meeting at 7:30 PM with the roll call. In the absence of member Beverly Fillio, he designated Alternate Peter A. Riley to participate in any voting matters before the board.

Regulation Amendments: Mrs. Campbell proposed two regulation amendments to be considered prior to the printing of the 1999 Zoning Ordinance Book. The first being an amendment to the Subdivision Regulations, would amend the "Fees" section (page 14) by adding the following:

*\$20 Recording Fee (plus applicable Rockingham County Registry of Deeds fee) for each attempt to register a mylar.*

She explained that \$20 would be billed each time a mylar is recorded or attempted to be recorded, plus the one time fee that the Registry charges. Currently that charge is \$26 per mylar; thus the total cost to record a mylar (provided it's recorded first try) would be \$46.

Mr. Dennis Quintal asked who was responsible for the cost of updating the tax maps when a subdivision is approved. Mrs. Campbell responded that although updating the tax maps is not free, it is included in the service provided by Rockingham Planning Commission.

The second amendment Mrs. Campbell proposed was to Section VI.G of the Site Plan Review Regulations by adding a new #2 as follows:

*Where necessary, the Planning Board may require interior access roads to connect adjoining uses and reduce the number of access points of the mainroad.*

She explained that this would benefit both traffic and appearance issues.

MOTION: Mr. Johnson motioned to post and hold a public meeting on April 15, 1999 on the proposed amendments to the Subdivision Regulations and the Site Plan Review Regulations as presented. Mr. Riley seconded. With no further discussion, the motion carried 5-0.

Minutes: The Board reviewed minutes dated January 21, 1999, January 28, 1999 and February 18, 1999. Noting that only three members were present at the January 28, 1999 meeting, and that not all three were present to vote this evening, Chairman Smith ordered that the approval of those minutes be postponed until the voting attendance requirement could be met.

MOTION: Mr. Johnson motioned to accept the January 21, 1999 minutes as corrected. Dr. Marston seconded. With no further discussion, the motion carried 4-0 (Mr. Donald abstaining).

**MOTION:** Mr. Johnson motioned to accept the February 18, 1999 minutes as corrected. Dr. Marston seconded. With no further discussion, the motion carried 3-0 (Mr. Riley and Mr. Donald abstaining).

**Gary Hinz— 76 Main Street Home Occupation Proposal— Public Hearing:** Ms. Nancy Reiss representing Mr. Hinz explained that her husband (Mr. Hinz) is proposing to operate a landscaping design office from the residence. She stated that the business is virtually invisible with no traffic impact, emissions of smoke or hazardous waste.

At Chairman Smith inquiry, Ms. Reiss responded to the following home occupation standards:

- 10.3.1 The office would be located in an office behind the garage. A building permit was issued to construct a 24'x24' garage with a 24'x14' office off the back.
- 10.3.2 There would be no evidence of the business except a sign, which they haven't clearly decided on whether to erect one or not.
- 10.3.3 There are no commercial vehicles. Mr. Hinz did own a commercial van; he ran his office out of it, but has since sold it.
- 10.3.4 Off street parking is not necessary as there will be no customer traffic. All work and consultation is done at the site.
- 10.3.5 Mr. Hinz, who is a resident of the premises, would conduct the business.
- 10.3.6 The business, being of an office nature, would not emit any smoke, dust, noise, lights, etc.
- 10.3.7 No hazardous traffic conditions will be generated, as there will be no traffic impact.
- 10.3.8 The office size is 24'x14'.
- 10.3.9 The only employees of the business are Mr. Hinz and Ms. Reiss (part-time), both residents of the premises.

Chairman Smith then opened discussion from abutters. Marjorie and Merrill Damon of 71 Main Street stated that they had no problems or concerns about the proposed business.

Discussion about whether or not a home occupation was necessary transpired. It was Ms. Reiss' understanding that the business falls under the invisible clause as provided for in Article 10.6, which states:

*Business owners who can demonstrate that they do not create any traffic, visual, or other impacts on the neighborhood (above and beyond those impacts resulting from the residential use of the property) may be exempted by the Selectmen from these permitting procedures.*

She further stated that the landscaping design business is comparable to that of an architect. There is no equipment and no customer traffic.

It was noted that at the preliminary hearing with Mr. Hinz, he (Hinz) stated that a sign would be erected at some point. Members stated that once a sign was put up, the business would no longer be deemed invisible. At the Board's recommendation at the preliminary discussion, Mr. Hinz agreed to pay all fees, and apply for an annual permit so that there would be no question of whether the business would be invisible or not.

**MOTION:** Mr. Johnson motioned to recommend the Board of Selectmen approve the application for a home occupation permit as presented. Dr. Marston seconded. With no further discussion, the motion carried 5-0.

**Dean Howard Construction - Sanborn Road Subdivision—Public Hearing:** Chairman Smith opened the public hearing at 8:00 PM for Dean Howard Construction's application to subdivide 99.57 acres (MBL# 8-2-9) into 10 lots.

Representing Dean Howard Construction was James Levelle, LLS of Levelle Associates, who explained that the proposal is to subdivide 99.57 acres into 9 frontage lots along Sanborn Road with one 81-acre lot remaining. He stated that each of the frontage lots would support individual septic systems and wells and each would have a minimum of 200-foot road frontage. He stated that each lot would have just over 2-acres each with ¾ acre of upland that is required by the zoning ordinance. He then reviewed each of the plot plan sheets noting the scale, soil types, test pit data, and 4,000 K areas. He noted that Tim Ferwerda was the soil scientist for this proposal.

Mr. Levelle then noted the two entrance locations along the street. One of the proposed roads measured 60-feet wide, the other 80-feet. He stated that the 80-foot proposed road was designed wider to allow little or no grading.

At the inquiry of the board, Mr. Levelle stated that these proposed 9 frontage lots might still be abandoned. This will depend on the development of the back 81 acres. He noted that his client (Mr. Howard) had instructed him to go forward with the frontage lots at this time, but that there is still a possibility they would not be developed.

While reviewing lots 8-2-22 and 8-2-23, Mr. Levelle stated that the building inspector has witnessed all the test pits. He further stated that no wetland crossings will be necessary on the frontage lots, as it is only a little wet to the rear of a couple of the lots. In reviewing sheets 4 & 5, Mr. Levelle stated that sight distance is not a problem. Mr. Charlie Zilch of Levelle Associates stated that no culverts are proposed on the frontage lots and the land flows to the back of the property. He further noted that the backland is fair and only one minimum impact crossing would be needed when developing the back land.

Chairman Smith questioned what fire suppression plans would be proposed. He further stated that the Planning Board would require these plans. Mr. Levelle stated that he had no fire suppression plans as of yet. He stated that when the backland is developed, there would be sufficient fire suppression source.

At Chairman Smith's direction, Mrs. Campbell read an abutter's letter submitted by Ellen Colvin of 53 Sanborn Road. Mr. Levelle's response to this letter was that there is much wetland behind the home of Ms. Colvin, therefore, there would be little development behind her property.

Mr. Levelle then stated that there are parties interested in purchasing this land from Mr. Howard and although no sales transaction has occurred, he wondered if and how this sale would effect these proposed subdivision plans. He stated that the interested parties would like to continue working with Levelle Associates in developing this parcel.

Mrs. Campbell stated that as long as the plans remained the same and all the fees were squared away, there didn't seem to be a problem with a sales transaction. Mr. Riley suggested that this be run by town counsel. Chairman Smith then opened the meeting for questions from abutters.

Mr. Michael Duclos stated that he was concerned with the possible grading of the property during development. Mr. Levelle stated that the nine individual lots would be developed in a normal manner with very little grading.

Mrs. Michelle Sinclair asked if grading restrictions could be placed on the development and if so, how could they be enforced.

Mr. Levelle responded that each individual lot owner could grade how they saw fit and that it is best to try and keep with a single developer. He reiterated that the lots are in extremely good shape and little grading is necessary. He went on to say that each lot would be approved as a buildable lot that would need both well and septic design approval.

At the inquiry of Nancy Fredricks, Mr. Levelle stated that although he can't answer for Mr. Howard, most of the homes built by Dean Howard Construction are colonial style.

Mr. Dennis Quintal questioned the frontage of the remaining backland. Although it measures over 200 feet, it is not contiguous. He further inquired if the developer has documentation to show the proposed driveways meet the sight distance requirements. Mr. Levelle stated that he has not measured all the driveway sight distances individually, but he thinks they appear to be fine.

Mr. Quintal stated that having such documentation might be important to the future landowners. He then stated that the character of Sanborn Road includes a lot of big trees. He stated that the town might want to protect those trees by restricting unnecessary cutting. Board members stated the board has required tree-cutting restrictions on previous subdivision plans and would consider imposing the same in this proposal.

Mr. Riley stated that he had questions about sight distance on proposed lots 8-2-24 and 8-2-23. He stated that these lots are located on a sharp bend in the road. He noted that once all the land is developed, the traffic impact on that corner would greatly increase causing a potential safety concern.

Mr. Smith stated that one of the proposed access roads is located across from an existing house and that headlights of vehicles exiting that street could be a nuisance.

Mr. Kevin Fitzgibbon stated that he too was concerned with the corner. He stated the schematic of the plan takes away from the actual bend in the road. He recommends that a slice be taken out of both proposed lots 8-2-23 and 8-2-24 to make the road access viable. He stated that the planning board needs to do something about that corner because it is not safe.

Mr. Levelle stated that trees and the stone wall could be cleared to accommodate better sight distance. Right now the distance there is about 300 feet where the state requires 450 feet.

Mr. Robert Simmons stated that he puts his daughters on the school bus by that corner every morning and that in the winter the corner is difficult to negotiate. He added that only residents of that street adhere to the speed limit there, which is only 30 MPH.

Discussion about drainage transpired. Mrs. Sinclair again stated her concern about the water run-off that ends up in the street by her house. Mr. Levelle stated that drainage plans were submitted to the planning board along with the subdivision application. He stated that a culvert would be designed to go in with the proposed road access. He reiterated that most of the water on the proposed nine lots would run-off to the rear of those lots.

It was noted that the nearest fire pond is located down the end of Sanborn Road by the Bodwell Farm and that this fire pond would not adequately support these proposed lots. Noting the application to subdivide MBL# 8-2-9 was complete,

**MOTION:** Dr. Marston motioned to invoke jurisdiction on the plan to subdivide MBL# 8-2-9 into nine frontage lots with a remaining parcel of 81 acres. Mr. Johnson seconded. The motion carried 5-0.

Mr. Levelle asked the board whether the issue to provide fire suppression needed to be handled at the 9-lot development plan or if it could wait until the back 81-acres is developed.

Chairman Smith stated that fire suppression would need to be addressed at the 9-frontage lot phase. He noted that the parcel consists of an existing pond that could be converted to a fire pond. Mr. Donald stated that the location of the existing pond is not accessible and it is not in a proper location to be considered for these frontage lots.

After further review of the proposal, the board noted the following items needing attention before subdivision approval consideration.

1. A fire suppression plan must be submitted and approved by the Fire Chief;
2. Sight distance to the newly proposed driveways must be documented and meet State requirements;
3. A stone wall and tree preservation plan must be submitted;
4. The curve in the road at lots 8-2-23 and 8-2-24 must be addressed;
5. The Road Agent's approval of the drainage plan must be obtained; and
6. Show the driveway for MBL# 8-2-11 closer to the RR tracks.

Chairman Smith then announced that this public hearing will be continued to April 15, 1999 at 8:00 PM at the Town Hall and that this announcement would serve as notice to all abutters.

**LaNoria Dev. Corp./Thomas Gage-Powwow River Road Subdivision – Continued Public Hearing:** Chairman Smith opened the continued public hearing at 9:05 PM for LaNoria Development Corporation. Thomas Gage owner of LaNoria is proposing a 6-lot subdivision to be located on Powwow River Road. He submitted a revised plan noting a reduction in the number of sheets.

He went on to say that the drainage easement located on prior plans has been removed. He stated that this was done because once the road was straightened out (as requested by the planning board) it was no longer needed. Water flow would be directed towards the culvert that would be located in the right-of-way. He also stated that the cul-de-sac's design has been modified to show an area in the middle to not be paved. He stated that the Subdivision Regulations cul-de-sac requirements reflect the center being unpaved.

Mr. Gage further stated that he has received letters from NHDES stating that all information regarding the wetlands application has been received and a decision on the application would be forthcoming.

Mr. Larry Smith noted that the Conservation Commission reviewed the LaNoria's Dredge and Fill application at their February meeting and has since submitted their comments to NHDES.

Mr. Gage then reviewed the list of items assigned by the board at the February meeting.

1. Address changes were made to the front page of the plans (Galecki & Bakie);
2. Abutter Roy was placed on the plan.
3. The soil scientist seal would not be placed on the plans until final draft;
4. Total length of the proposed road is indicated on sheet #5 with a note on #6;
5. Fire pond easement is shaded;

6. Flare in fire pond easement is shown on plan;
7. Stone wall relocation notes on sheet #2 & #3;
8. Three copies of the road profile were submitted to the planning board;
9. Concrete bounds shown on plan;
10. Easement language was forwarded to town counsel—awaiting his response;

He noted that the fire pond easement language could not be written without referencing the proposed plan. When the mylar is recorded, the fire pond easement deed would also be recorded.

11. Three copies of detailed page of fire pond submitted to the Fire Chief;
12. He is still waiting to hear from NHDES about Dredge & Fill application. and
13. State Subdivision approval would not be given until Dredge & Fill permit is approved.

The board then noted the following outstanding items still needing completion:

1. Still awaiting dredge & fill approval by the State;
2. State Subdivision approval needed;
3. Easement language approval by town counsel (fire pond and right-of-way);
4. Soil scientist stamp on plan;
5. Town engineer to review the road profile and the bond estimate.

Mr. Gage stated that he would like to send the road profile and bond estimate to the town engineer prior to dredge & fill approval.

6. Replace boundary line at Roy property.

Mr. Gage stated that he was willing to extend the 90-day clock and additional 30 days. (For the record this is the second extension given by the applicant.)

Chairman Smith announced that this public hearing would be continued to April 15, 1999 at 9:00 PM at the Town Hall and that this announcement would serve as notice to all abutters.

**Debbie Feather - Main Street Site Plan Review Proposal— Discussion:** Chairman Smith opened discussion with Debbie Feather at 9:38 PM. Ms. Feather is proposing to operate a country craft store in the old post office building (formerly the video store).

Ms. Feather stated that she would like to operate a country store selling homemade craft items. The scale of the business would be very small, as she would be the only employee at this time. She would consider hiring a part-time employee to assist during the holiday season. She stated she currently resides in Nottingham. The hours of operation would vary depending on the season (slower during the winter months): Tuesday – Saturday and on Sunday's when store is busy. She noted the store hours would be limited to daytime hours except during the holidays, where she might consider one or two evenings.

Members noted that the past use of the building has been commercial but that it is located in a residential zone. Discussion about the well and septic condition transpired. Members agreed that a continued retail use of the property would not impact the well and septic as would a proposed food service use.

Ms. Feather stated that the use of the bathroom would be strictly limited to herself and not to the public. At further inquiry, she stated that the only production type activity at the shop would be her own decorative painting. She continued to say that she would like to paint the outside trim on the building and erect a sign.

Members advised about the sign provisions and cautioned the applicant to read them carefully before ordering a sign. It was further noted that the Board of Selectmen issues sign permits.

Owner of record Lauren Wise then submitted a letter to the board advising of a change in tenancy and inquiring of the proper procedure to continue a retail use.

Several members stated that they didn't think a full site plan review was needed, as the proposed use of the property has not changed from past use.

Mr. Donald stated that he felt the abutters to this parcel deserve notification of this proposal.

Mr. Johnson stated that he understands Mr. Donald's point, but that the Site Plan Review Regulation allow the Planning Board to waive the full procedure if the use of property does not change. Furthermore, time is an issue for the applicant.

Mr. Riley stated that he was in favor of the proposed use but questioned any expansion plans. He noted that a full Site Plan Review might be required if and when expansion is proposed.

Ms. Feather responded that the layout of the building prohibits her from expanding at this location. She stated that if she were to expand it would be in the form of renting another building (in addition to this one).

**MOTION:** Mr. Riley motioned to waive the full Site Plan Review process and approve the country gift store proposal as presented. Dr. Marston seconded. With no further discussion, the motion carried 5-0.

**Incoming Correspondence:** Chairman Smith acknowledged the following incoming correspondence:

1. Letter from Charlie Marden seeking approval of tenancy at 213 Haverhill Road (light industrial zone) for a mulch stockpiling company out of VanBuren, Maine.

Members agreed that unresolved issues regarding the operation of a trucking terminal from 213 Haverhill Road must be addressed prior to this consideration.

2. Letter from Atty. William Beckett regarding a conceptual plan to operate a school, pediatric practice and farm from the UNH property on North & Stumpfield Roads (formerly the Rosenberg property). In the letter, Atty. Beckett states that he believes the proposed use is allowed without the need for any permits.

Members discussed the nature of the proposal in regards to its compliance with the zoning ordinance. It was noted that although each proposed use (doctor's office, daycare, and farm) might be an allowed use (in conceptual form only), the totality of the proposal was questionable. It was agreed that a letter be forwarded to Atty. Becker directing the applicant to file for a public hearing.

**Chairman and Vice-Chairman:** Chairman Smith announced that the positions of the chairman and vice-chairman expire in March 1999.

**MOTION:** Dr. Marston motioned to nominate Richard Smith as Planning Board Chairman for the term on one year to expire in March 2000. Mr. Donald seconded. With no further discussion, the motion carried 4-0 (Mr. Smith abstaining).

**MOTION:** Dr. Marston motioned to nominate Edward Johnson as Planning Board Vice-Chairman for the term of one year to expire in March 2000. Mr. Donald seconded. With no further discussion, the motion carried 4-0 (Mr. Johnson abstaining).

At this time Mr. Nigrello stated that his term as planning board alternate was up and that given his busy work schedule, he would not seek re-appointment. Members realizing Mr. Nigrello's past attendance, sympathized with his decision, but noted that his integral contribution to the board far outweighed his attendance record. After much discussion, members were successful in convincing Mr. Nigrello to sign up as alternate member for another three years.

With no further business before the board,

**MOTION:** Dr. Marston motioned to adjourn. Mr. Johnson seconded. With no further discussion, the motion carried 5-0 and this March 25, 1999 public planning board meeting ended at 10:55 PM.

Catherine Belcher  
Secretary

Minutes completed and on file March 30, 1999.

Minutes approved on 4/15/99 5/20/99