

TOWN OF EAST KINGSTON, NH  
PLANNING BOARD MEETING MINUTES  
April 16, 1998

FILE

AGENDA

- 7:45 Justin Robinson (NEXTEL) – Telecommunications Tower Proposal - Discussion
- 8:00 Richard Cook– Light Industrial Park– Site Plan Review – Continued Public Hearing
- 8:30 Charlotte Wall/Gary & Kathleen Tuck– Willow Road Subdivision – Continued Public Hearing
- 9:00 Keith Moore– Home Occupation Proposal – Public Hearing

**Members attending:** Richard A. Smith Sr. - Chairman, Edward C. Johnson – Vice Chairman, John L. Fillio – Ex-officio, Catherine George, Dr. Robert Marston (7:40), and Alternate Beverly Fillio.

**Others attending:** Sarah Campbell - RPC Circuit Rider, Glenn P. Clark – Building Inspector, Becky Hanna - RCN Correspondent, Richard Cook, Deborah Kiesel, Keith Moore, Atty. Keri Marshall, David Toothaker, Richard Friese, Alan Daey, Brett Smith, Charlotte Wall, Gary & Kathleen Tuck, George Henshaw, and other members of the public who did not address their concerns.

Chairman Smith called to order this April 16th public planning board meeting at 7:32 p.m. with the roll call.

Chairman Smith designated Alternate Beverly Fillio to vote in the absence of Dr. Robert Marston.

**March 19, 1998 Planning Board Minutes:** The Board reviewed the minutes dated 3/19/98.

**MOTION:** Mr. Fillio motioned to accept the March 19, 1998 Planning Board minutes as presented. Mrs. George second. The motion passed 5-0.

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

1. Office of State Planning: Annual Spring Conference to be held May 30, 1998. Board members were instructed to register with the recording secretary by May 1, 1998 if they plan to attend.
2. Martin Environmental Inc. – Survey regarding GIS mapping.
3. Rockingham Planning Commission – Circuit Rider Contract for April 1, 1998 through March 31, 1999. Cost of \$3,960 with \$1,320 due at signing, \$1,320 due August 1, 1998 and \$1,320 due December 1, 1998. Chairman Smith signed the contract and ordered that it be submitted to the Selectmen's office for approval and payment.
4. Rockingham Planning Commission – Requesting recommended East Kingston streets for the 1998 Traffic Count.

Dr. Robert Marston entered the meeting at 7:40 p.m. Mrs. Fillio was excused from voting participation.

**Zoning Books:** Mrs. Campbell informed the Board that the Zoning Books are ready for print, however, since the Site Plan Review Ordinance is still being amended, does the Board want to print the books now as is, or wait until Site Plan Review is finished. The Board will contact her with their decision.

**Justin Robinson/NEXTEL– Telecommunications Tower Proposal–Discussion:** Chairman Smith opened discussion with Justin Robinson at 7:45 p.m. Mr. Robinson represents NEXTEL Communications and is proposing to install a 180 ft. telecommunications tower on Morse Hill, property owned by Glenn & Kathy Clark of 21 Burnt Swamp Road.

Mr. Robinson stated that NEXTEL has obtained a lease/hold option from the Clak's to use Morse Hill. The tower will cover East Kingston and it's surrounding area. He stated that he is looking for a clear interpretation of the zoning ordinance.

At the inquiry of the Board and public, Mr. Robinson offered the following:

1. A 60' x 60' parcel will be used on top of the hill.
2. Tree cutting and gravel pit activity is currently being done.
3. Power to the tower will be supplied off of Burnt Swamp Road at the landlord's property.
4. Some of the types of services the tower will allow are dispatching, faxing, and cellular telephone use.
5. Any interference of surrounding t.v.'s telephones, etc. will be dealt with in accordance with FCC rules and regulations. Only 24 hours is allowed for such interference to be resolved.
6. The tower will accommodate other carriers.
7. The tower is self-supporting.

8. No lighting requirements for towers under 200 feet.
9. A radio technician will be sent to the site every 4 to 6 weeks for inspection and repairs.
10. Area will be fenced in with barbed wire at the top.
11. The tower is bullet proof.

It was noted that telecommunications towers are not allowed in residentially zoned districts. Morse Hill is zoned residential. Mr. Clark stated that his gravel pit is considered commercial and inquired if that commercial status could apply to this proposal.

The Board discussed zoning in East Kingston and stated that although the gravel pit activity is commercial by grandfathering, the commercial use cannot be transfer to a different use. The Board stated that one option is to formally apply for this proposal via site plan review, be denied by virtue of the zoning issue and then appeal to the Zoning Board of Adjustment.

**Richard Cook – Site Plan Review – Light Industrial Park – Continued Public Hearing:** Chairman Smith opened the public hearing for Richard Cook at 8:00 p.m. He informed the public that because Mr. Cook's request for variance has not yet been addressed by the Zoning Board of Adjustment, no action from the Planning Board will transpire, however, the hearing will be opened to allow for public discussion. He stated that because of other scheduled hearings this evening, only thirty minutes will be permitted for this discussion.

Mr. Richard Cook stated that he has nothing further to present to the Board until the variance request has been addressed. The hearing for this request has been postponed until Thursday, April 30, 1998 at 7:30 p.m. at the Town Hall.

Mrs. Deborah Kiesel inquired if all the particulars including the landscaping and buffer issues will be addressed at the Zoning Board's hearing.

Chairman Smith replied that they would.

Atty. Keri Marshall, representing Mr. & Mrs. Toothaker, stated that she has looked at the application. She stated that the proposed use(s) of the property is not listed and that the abutter have the right to know what businesses are being proposed. She continued to say that the Board should know these businesses before approving this plan.

She stated that she did not know how Mr. Cook's proposal got to the ZBA when it is not clear where the buildings will be and what types of buildings will be constructed. The application should not be deemed complete until that information is submitted.

Mrs. Kiesel agreed and stated that only three buildings are shown on the plan when the application indicated 15 to 20 buildings. She stated that the final product is not clear, all proposed buildings should be shown on the map.

Mr. Cook responded that only phase I is being addressed at this time.

Mrs. Kiesel stated that the plan does not meet the application.

Mrs. Campbell noted that the current plan is different from the plan presented during preliminary discussion.

Mr. Cook stated that the plan had to be modified because of the wetlands. No field data was done at the time of the preliminary discussion. At the Board's inquiry he pointed out the next two phases of the proposal. He stated that land out front on Route 108, just south of the PSNH easement, and land out back will be used. One other option under consideration is a plan to combine acreage with Dewey Bowley's property and Charlie Marden's property.

Mr. Friese asked why the portion closest to the street was not being developed first.

Mr. Cook stated that it was his option to begin phase I on the north side.

Mrs. Campbell stated that the Board cannot approve units that are not on the plan and only five are shown on this plan.

Mr. Cook stated that there are State considerations to address as well. He added that phase II will be to propose 10 to 15 units in the area by the road.

Mr. Alan Dacey stated that in proposing units 25 to 50 feet from abutters, hardship criteria must be addressed. If building on the other side of the parcel were proposed, there would be no hardship.

Atty. Marshall stated that no HISS mapping has been presented. She stated that the ordinance lists several other items that must be shown on a site plan review proposal. None of those are shown. She went on to say that it is not the abutters' intention to keep the light industrial development out, they just want all the regulations adhered to.

Mrs. Kiesel stated that the Ashlie Road subdivision has strict legal covenants and that proposing construction of the light industrial park 25 – 50 feet away goes against the spirit of the covenants. In doing so, it lowers the property value of the homes within that subdivision as these restrictions and setbacks are figured into the values of the properties.

At the inquiry of the Board, Mr. Cook stated that phase III, if Mr. Bowley goes in on it, will encompass the gravel pit and Mr. Marden's property. He stated that given the wetlands and easements, there is a horseshoe shape portion of useable land and problems will be addressed as they go along.

With no further discussion, Chairman Smith announced that this public hearing would be continued to May 21, 1998 at 8:00 p.m. at the Town Hall. This announcement will serve as notification to all abutters.

**Charlotte Wall/Gary & Kathleen Tuck – 128 Willow Road Subdivision – Continued Public Hearing:** Chairman Smith opened the public hearing for Charlotte Wall's subdivision proposal at 8:30p.m. Mrs. Wall is proposing to subdivide 8.8 acres into 2 parcels located at 128 Willow Road, MBL#7-3-3.

Mrs. Wall presented plans of the proposed subdivision. The Board reviewed items as were directed at the March 19<sup>th</sup> hearing.

1. HISS mapping on both lots (7-3-3 & 7-3-66);
2. Frontage of new lot must be shown (on both Willow Road and Forest Drive);
3. Existing well and septic on 7-3-3 must be shown;
4. Proposed well, septic and test pits for new lot must be shown;
5. Proposed house location must be shown;
6. New MBL # 7-3-66 must be shown;
7. Remove the disputed boundary line and convey the 26 feet to Mr. Henshaw.

It was noted that all seven items were met. It was also noted that the items were all presented on the mylar, thus it was very busy. It was not clear if this would be acceptable at the Registry of Deeds. In reviewing item #7: disputed boundary line, the Board requested that a signed copy of the Quit Claim Deed be submitted to the Planning Board as soon as possible. Because the deed will not be processed until the closing of the sale of the property, presenting it would not be a requirement prior to the subdivision's approval.

The question was raised about whether State Subdivision Approval was required, as the existing house lot would be less than 5 acres. This would be investigated and should it be a requirement, the plan will not be recorded until State approval is received.

**MOTION:** Mrs. George motioned to accept jurisdiction on the proposed subdivision plans presented for MBL#7-3-3. Mr. Johnson second. With no further discussion, the motion passed 5-0.

**MOTION:** Mr. Johnson motioned to approve the application to subdivide 8.8 acres into 2 parcels identified as MBL#7-3-3 and 1 located at 128 Willow Road. Dr. Marston second. With no further discussion, the motion passed 5-0.

For the purposes of recording into the minutes, Chairman Smith signed the mylar and plans.

**Work Session:** The next Planning Board work session will be held on Thursday, April 23, 1998, 7:00 p.m. at the East Kingston Town Offices. The agenda will include Site Plan Review – Building Aesthetics, the Goals chapter of the Master Plan and the Future Land Use maps.

**Keith Moore – Home Occupation Proposal – Public Hearing:** Chairman Smith opened the public hearing for Keith Moore's home occupation proposal at 9:04 p.m. Mr. Moore is proposing the operation of a pool service office from 11 Ashlie Road.

It was noted that Mr. Moore was before the Board March 19, 1998 for a preliminary discussion of his home occupation proposal.

At the inquiry of the Board, Mr. Moore explained that the office in the home would be confined to a 12'x12' room. There are seven rooms in the house. Only one commercial vehicle will be kept at the premises, that being a one-ton pick-up truck, which is also his personal vehicle.

He reiterated for the Board that only office duties will be conducted at 11 Ashlie Road, and that no storage of chemical, piping, pool forms, etc. will be done. Those items will be stored in Salisbury, Ma. He stated that there will be no customer traffic and no sign will be erected.

The Board reviewed the Home Occupation Standards 10.3.1 through 10.3.9. and found each requirement satisfied.

Mr. Moore stated that he subcontracts out the dig for the pools, but does the rest himself. He builds about 3 pools a year and services many others. When asked why the office part of the business was not located at the site in Salisbury, Mr. Moore answered that the site in Salisbury is only set up for storage.

Chairman Smith opened up comment from abutters at this time. Both Mr. Brett Smith and Mr. Friese stated that they did not have a problem with Mr. Moore's proposal.

**MOTION:** Mr. Fillio motioned the Planning Board recommend the Selectmen approve the application for a home occupation permit for a swimming pool service office to be located at 11 Ashlie Road. Mrs. George second. With no further discussion, the motion passed 5-0.

At this time the Board took up discussion on the home occupation ordinance. Consistency in applying the ordinance to applicants was noted as a concern. An example of a Powwow River Road and Ashlie Road home occupation was discussed. When applying the "invisible" clause under home occupations, the home occupation must not be visible in any way, including signage, vehicles, etc.

It was the opinion of some members that all home occupations, invisible or not, be required to get a permit. This would allow for annual review of the business, checking for conformity and growth.

It was mentioned that one reason consistency is not always applied to applicants is that there are two boards making one decision. One board may not be interpreting the ordinance the same as the other.

The viability of the home occupation ordinance was questioned. It was clarified that the home occupation ordinance does not stop businesses from being conducted in East Kingston, it only restricts the types of businesses conducted. Businesses that keep within the residential characteristics of the town are allowed.

The expanded use of a site located in a commercial district was discussed. The Board questioned how this business was given the approval for expansion without going through the site plan review procedure. It was noted that several complaints have been brought up against this expansion. The Board clarified that only the Planning Board has the authority to approve commercial expansions.

With no other business before the Board,

**MOTION:** Dr. Marston motioned to adjourn. Mr. Johnson second. The motion passed 5-0 and this April 16, 1998 public planning board meeting ended at 9:35 p.m.

Respectfully submitted,

Catherine Belcher  
Secretary

Minutes complete and on file April 17, 1998.