

Town of East Kingston, NH
Planning Board
Minutes

Date of Meeting: April 17, 2003
Place of Meeting: Town Hall
Time of Meeting: 7:00 p.m.
Type of Meeting: Monthly Meeting

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

Others Present: Maura Carriel, Rockingham Planning Commission; Kent Shepherd, Building Inspector.

In-Coming Correspondence:

1. 2003 Expended Budget.
2. Smart Growth Workshop on May 12, 2003 presented by the Office of State Planning to be held at the New England Center, UNH. Mr. Fillio and Mr. Madej noted they would like to attend.
3. Brochure from Rockingham County Economic Development Commission regarding submission of grants.
4. Rough draft of proposed bylaws and changes presented by Mr. Day. The board will hold a work session on May 1, 2003 at 7 p.m. to discuss.
5. Rough draft of proposed subdivision regulation change for payment of professional services. The board will hold a work session on May 1, 2003 at 7 p.m. to discuss.
6. This old NH House and Barn Expo brochure to be held on May 10 & 11 at the Center of NH, Holiday Inn, Manchester, NH.
7. Letter of interest from John Burton, 129 Haverhill Road to become an alternate to the Board. No formal decision was made for presentation to the Board of Selectmen.
8. Contract for 2003-2003 for the Circuit Rider Services, RPC. A \$2.00 per hour increase has been figured for the proposed 13 hours of service per month. The board noted that the contracted amount would remain almost the same if the services were reduced to 12 hours per month. The board felt that additional discussion needs to be held on this topic regarding services provided, plan review and charging for professional time to the associated developers. This item will be discussed during the work session of May 1, 2003 at 7 p.m.
9. Letter from the Board of Selectmen dated March 24, 2003 regarding Richard Cook and David Sullivan for the upgrading of Bowley Road. It was noted that the Selectmen have agreed to allow Mr. Cook and Mr. Sullivan to bring Bowley Road from a Class 6 highway to a Class 5 highway at the developer's expense including all town engineering review and inspection costs.

Election of Officers:

Term of Chairman:

Mr. Smith opened the floor for nominations:

Mr. Fillio made a motion to nominate Mr. Day as Chairman.

Mr. Smith seconded.

Mr. Smith asked for any additional nominations. None were received. Mr. Smith closed the nominations for Chairman.

The motion passed unanimously.

Term of Vice Chairman:

Mr. Smith opened the floor for nominations:

Dr. Marston made a motion to nominate Mr. Smith as Vice Chairman.

Mr. Day seconded.

The Board asked for additional nominations. None were received. The board closed the nominations for Vice Chairman.

The motion passed unanimously.

Mr. Day asked Mr. Smith if he would kindly finish tonight's meeting as Chairman. Mr. Smith accepted. The board thanked Mr. Smith for his many years of service as Chairman to this board.

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

Mr. Richard Cook, Mr. David Sullivan, Mr. Dennis Quintal, Engineer and Mr. Frank Postle were present.

The board received the following correspondence regarding this proposal:

Report dated April 11, 2003 from Board Engineer, Jay Stephens. Report dated April 14, 2003 from Maura Carriel, RPC.

Mr. Quintal commented on the Board Engineer's report under the Subdivision Plan Review that all concerns regarding the subdivision plans have been addressed. It was noted that the roadway, as designed, is not located in the center of the right-of-way. While this is not a significant issue, the town needs to be aware of the issue. Mr. Stephens recommended additional easements be secured along the right (southerly) side of the new roadway for drainage and side slope maintenance. Drainage easements will also need to be secured on lot 11-2-11-2.

Mr. Quintal addressed the report prepared by Ms. Carriel, RPC. Text in bold is the report text from Ms. Carriel with the Board resolution, decision or action following for each of the 8 items noted as follows:

- 1. The applicant provided soils information in a submittal dated 1/15/03. The conclusion of that submittal was that as on-site soils tests revealed no dramatic difference from the County soils maps, Site Specific Soils mapping is not warranted. The board still needs to review this information, or ask the Conservation Commission for review and comments, and accept or not accept the findings.**

Ms. Carriel reported that she has spoken with Larry Smith, Conservation Commission regarding the soils data and that the information as submitted is acceptable. The recommendation was that Site Specific Soils mapping is not warranted. The board concurred that the submission was adequate and no further mapping is necessary.

- 2. With the connection of Ashlie Drive and the proposed Sullivan Drive, the excess pavement on the existing cul-de-sac bulb could be removed to create a standard, defined road width and intersection design. If that is done, pavement should be left to connect to the driveways to existing lots 11-2-36 (Leith) and 11-2-25 (Toothaker). The cost for these alterations would be the responsibility of the owners/developers of lot 11-2-11. The Board may wish to ask for input from the Police Department and Town Road Agent in deciding whether to require this modification.**

It was noted the Board Engineer felt the pavement could stay or it could be removed. The Police Department and Road Agent will be asked for input on this matter. It was suggested that if the pavement was to remain, the actual roadway could be striped depicting the lanes of traffic. Mr. Toothaker commented that if the pavement was to be removed he would like to have the front of his yard landscaped appropriately to match his existing

landscaping. It was noted that Rick Leith would be left 35 feet short on his driveway. It was felt that this issue could be noticed as a condition of approval. It was felt that if the pavement were to be removed, the restoration requirements and supervision of the work being completed would be handled by the Board Engineer and the Road Agent. It was noted that the land in which the road and bulb of the cul-de-sac sits on the land owned by the abutters and the applicant. No deed changes would have to be made and a temporary easement currently exists for the existing road location.

3. **The Fire Department will need to provide approval of the fire suppression system prior the Board's final approval. The fire suppression easements need to be delineated graphically on the sheets to be recorded in addition to being described in a note, as they affect the buildable area of proposed lot 11-2-11-3.**

Mr. Quintal explained they have been in contact with the Fire Department and two 45 degree angles and associated easements will be added to the plan as requested by the Fire Department.

4. **The status on the plans for Bowley Road upgrade, and for application to the NHDOT for a driveway permit. The Town Engineer's review of the road plans and the Subdivision and Site Plan applications should be coordinated with the NHDOT review process. A NHDOT Permit should be received prior to the Board's final approval of the applications.**

Mr. Quintal presented a NHDOT permit which was issued for the previous proposal of an elderly housing complex consisting of 52 units, one single family unit and the gravel pit. It was noted that the proposal for this particular entrance onto Bowley Road and Route 108 is for three residential homes and an application has been made for the light industrial area proposal. Mr. Quintal noted that he has been in contact with Alan Garland, NHDOT-District 6. The Board previously noted that Mr. Cook and Mr. Sullivan would be responsible for the upgrade of Bowley Road, however, the Planning Board is requesting that plans be put together for the road profile, road construction and how the whole project will fit together with the proposed light industrial use. The Board Engineer will review the submitted plans to insure compliance with the local regulations. The board also discussed the intersection of Route 108 and Bowley Road and it was clarified by Mr. Cook that the entrance will be a wide paved area and that the entrance is very deceiving at this point, because not all the land is being utilized for the actual roadway. Mr. Quintal will provide documentation that the NHDOT-District 6 is aware and authorizes the entrance/exit permit for the three residential lots.

5. **What is the status of other required state approvals?**

State Subdivision and NHDES Wetlands Permit are still pending.

6. **Language for all easements benefitting the Town (fire suppression system, slopes, treatment swales) should be reviewed by Town Counsel prior the Board's final approval.**

Mr. Quintal noted that Fire Department approval is pending and that language will be submitted.

7. **A note should be added to the sheets to be recorded indicating that they are part of an X# page plan set on file with the Town.**

Mr. Quintal noted that this note has been added to page 2, note #5.

8. **A performance security will need to be in place prior to the Board's final approval.**

Mr Quintal noted his clients will be working with the Board of Selectmen to put the performance security in place.

Soils:

Mr. Fillio made a motion to accept the soils information as presented and that site specific soil mapping is not required

for this project.

Mr. Day seconded. The motion passed unanimously.

Waivers

Mr. Quintal presented a waiver request regarding Subdivision Regulation, Appendix B, Typical Road Section, fill on roadside slopes 4:1. To minimize filling, the plans indicate fill side slope of 3:1 without guardrails and 2:1 with guardrails.

Mr. Day made a motion to approve the above mentioned waiver request. It was noted this waiver request was supported by the Board Engineer.

Mr. Fillio seconded. The motion passed unanimously.

Lot Numbering:

Mrs. Rice informed Mr. Quintal that the lot numbering system needs to be changed, however only 2 new numbers were received from the Selectmen's Office instead of three. Mr. Quintal noted he would contact the Selectmen's Office to correct this situation.

Mr. Smith asked for abutter comment:

Mr. Frank Postle, 7 Ashlie Drive presented the Board with information regarding the overhead electric lines and a several page comment sheet on various issues. Mr. Postle apologized to the Board for presenting this amount of information at the last minute. Mr. Postle gave a very brief and quick overview of the electric line information and asked the board to consider the setback of the homes in relationship to the lines and to consider a buffer area. He expressed concern that lot 11-2-3 does not conform to the backlot provision, that Bowley Road cannot be upgraded to a Class 5 road without Town Meeting approval, not just Board of Selectmen approval, that issues remain with the road layout-specifically radius on the turns, impact of neighboring properties and tax implications, submission of test pit data and gas pipe line issues. He asked the board to review the storm water drainage information as well as determining if a site specific permit was necessary.

The board reviewed the outstanding items as listed below for the formulation of a conditional approval:

1. The developer will upgrade Bowley Road from a Class 6 Road to a Class 5 Road at his own expense. Plans will be submitted and approved by the Board of Selectmen and Town Engineer. All costs associated with review and inspection of the project by the Board Engineer will be the responsibility of the developer.
2. All state permits including subdivision, wetlands and NHDOT must be provided/resolved.
3. Receipt of acceptable bonding for all improvements.
4. Easement language must be provided and reviewed by Town Counsel.
5. Resolution of the Ashlie Road cul-de-sac. The developer must contact the Road Agent, Town Engineer and Police Department to determine if the "bulb" ends will be removed. If removed, the developer shall at his expense restore the area to an appropriate condition to include regrading, loaming and seeding of the disturbed areas to match the existing landscape.
6. Correction of lot numbering system.
7. Plans must be signed and stamped by the engineer and land surveyor.
8. Certificate of Monumentation and all road side bounds shall be included in the bond. These bounds shall be installed after road completion and before the security is released.
9. Waivers granted shall be placed on the plans.

The board decided that due to time constraints this evening, that it would be best to review the abutter comments at the

work session.

Mr. Cook asked for a continuance until the next meeting.

Mr. Day made a motion to continue the Public Hearing until May 15, 2003 at 7:30 p.m.

Mr. Fillio seconded. The motion passed unanimously.

Mr. Postle asked if work session minutes were available for public inspection. Mr. Smith informed him that they were.

Mr. Quintal provided the Board with the cost estimate for the road construction of Sullivan Drive. This estimate will be forwarded to the Town Engineer for review and acceptance.

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

Mr. Cook asked the Board to continue the public hearing until the next meeting so that they may address the issues presented in the report prepared by Ms. Carriel, RPC.

Mr. Day made a motion to continue the Public Hearing until May 15, 2003 at 8:00 p.m.

Mr. Fillio seconded. The motion passed unanimously.

Public Hearing for Paul Masone, 213 Hæhijl Road, TMBL 11-2-16 for a proposed site plan review of a 7,200 square foot building

Mr. Dennis Quintal, Engineer and Mr. Paul Masone were present.

Mr. Quintal presented plans which show the addition of a 7,200 square foot building located to the right rear of the present green building which houses Granite State Cover.

Mr. Quintal addressed the report prepared by Ms. Carriel, RPC. Text in bold is the report text from Ms. Carriel with the Board resolution, decision or action following for each of the 15 items noted as follows:

1. **It is unclear from the information that I have received what the proposed use is for the new building. The Board will first need to determine whether the proposed use complies with the list of permitted uses listed in the Zoning Ordinance, Article V, Sec. C. In addition, in reviewing the Site Plan application, the Board will need to review the 11 items outlined in the Zoning Ordinance, Article V, Section E. The ordinance states that all 11 items must be considered prior to site plan approval.**

Mr. Quintal asked to defer comment on this item.

2. **The owner of record should be noted on the plan. The plan is also missing the names and address of all abutters.**

Mr. Quintal noted the plans have been amended to show this information.

3. **The legend should be expanded to include all line and point symbols.**

Mr. Quintal noted this has been added.

4. **The plan is missing the stamp and signature of a Licensed Land Surveyor. The Town's Site Plan**

Regulations require surveyed property lines.

Mr. Quintal noted that these are surveyed plans and will be stamped accordingly.

5. **The plan is missing the stamp and signature of a Wetland Scientist, along with a note regarding the delineation methodology.**

Mr. Quintal noted this will be added to the plans.

6. **Soils data as outlined in Subdivision Regulation Sec. VII is required to determine whether SSS mapping is needed.**

Mr. Quintal presented the soils report.

7. **What is the motor vehicle and pedestrian circulation pattern for the proposed building? Where are building entrances? Are there any loading areas?**

Mr. Quintal noted that this has been added to the plans. It was further noted that this site does not have an established pattern flow for traffic or pedestrians and that it is being developed as the site is being developed.

8. **What is the status of the septic system expansion?**

Mr. Quintal noted that new plans were submitted to the Town and have gained approval. The plans will be submitted to the State for approval.

9. **Are there any additional dumpsters proposed. If so, their location and appropriate screening should be shown.**

A proposed dumpster has been added which will set upon a grassed and fenced area.

10. **The approved telecommunications structure and associated improvements are part of the site and, as such, need to be shown on this site plan.**

Mr. Quintal noted that they have added a note to the plans and they will be adding this information to the plan.

11. **An erosion and sedimentation plan needs to be provided.**

Mr. Quintal noted the addition of silt fences along the Northeast perimeter area. He noted the site is primarily gravel and that the disturbance to the area would include the excavation of the foundation. It was noted that there is no top soil in the area and very little disturbance will occur.

12. **Plans of the proposed building with its type and size need to be provided. An elevation view of the building, including its height, bulk and surface treatment is also required.**

Mr. Masone presented to the Board members the material regarding the type, size and surface treatment of the building. The Building is estimated to be 60 feet by 120 feet and will be identical to the green building he currently occupies on the site which is a metal type structure.

13. **Is any landscape proposed.**

Mr. Quintal noted that additional grass and shrubs will be installed.

14. **Additional information is needed on the proposed lighting. A photometric plan is necessary to determine**

adequate lighting levels for the site, as well as whether a waiver will be needed.

Mr. Masone noted that motion control light will be installed and is shown on the revised plans. A waiver will be submitted regarding the photometric plan and the candle power.

15. Fire Suppression Needs.

Mr. Masone noted a dry hydrant is currently on site and is approximately 700 feet from the proposed building. It was noted that the building will be inspected on a yearly basis by the Fire Department. The Board asked for a letter from the Fire Department regarding the fire suppression needs.

Mr. Masone explained that he would like to construct a three bay building 60'x 120'. Mr. Seth Perillo, granite stone cutter would occupy the first bay, the second bay would be used for storage and one rental unit which would have site plan review by the Planning Board of the prospective occupant. Separation walls would be installed between the bays.

Mr. Masone was asked for breakdown of the occupants of each building and they are as follows:

- Building #1: Granite State Cover
- Building #2: One Shot Electric (fleet of yellow trucks)-Don Jenson
- Building #3: Granite State Cover
Seth Perillo, Custom Stone
- Building #5 Jones Boys Insulation

The board discussed the inter-connection with Mr. Masone to the Cook/Sullivan property. It was noted that Mr. Masone and Mr. Cook have discussed this inter-connection.

Mr. Masone asked the board to follow up with the closing of the Murphy driveway at the road. It was noted by several board members and the applicant that this is becoming a hazard and is a dangerous situation. Mr. Fillio noted he would follow up with the Board of Selectmen to enforce this closure correctly.

It was noted that input from the Conservation Commission is needed regarding the soils information. A soil report will be forwarded to Mr. Larry Smith, Conservation Commission.

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

Mr. Day seconded. The motion passed unanimously.

Mr. Quintal presented a waiver request for the lighting.

Mr. Fillio made a motion to grant a waiver for the requirement of a photometric plan, specifically Section VIII.D. of the Site Plan Regulations and .5 candle power at the property line.

Ms. Belcher seconded. The motion passed unanimously.

Mr. Day made a motion to continue the Public Hearing until May 15, 2003 at 8:45 p.m.

Dr. Marston seconded. The motion passed unanimously.

Public Hearing for Phillip Tyrrell, 101 Giles Road, TMBL 6-1-1 for a proposed 2 lot subdivision

Mr. Leo Washburn, Parker Survey, Mr. and Mrs. Tyrell were present.

An updated set of plans depicting a two lot subdivision were presented. The proposed two lot subdivision on Giles Road is to divide the 13.24 acre lot into one 6.52 acre lot and one 6.72 acre backlot. The parcel is located in the Residential/Agriculture/Forestry District, and a portion falls within the Wetlands Conservation District. Propoted lot 6-1-1A has an existing house and barn, on-site water and septic. An on-site septic system and well is proposed for the newly created lot.

The board received a report from Ms. Carriel, RPC regarding this proposal and it was noted as follows:

Lot 6-1-1B is proposed as a backlot, and thus must meet all requirements of the Zoning Ordinance, Article IX, Sec.B. The subdivision plan shows access to proposed lot 6-1-1B (backlot) via a shared driveway across proposed lot 6-1-1A. This does not comply with Article IX, Section b.7, which states that access to a backlot must be located in the 40' area. This is a zoning requirement, which the Board cannot waive. The board should either deny the plan and the applicant pursue a variance from the ZBA, or the applicant submit a revised plan which complies with all zoning requirements.

It was noted that the applicant could pursue and receive a variance, however, the plan would still need to meet the Town's Subdivision Regulations, which prohibits shared driveways. The Board could choose to waive or not waive that requirement.

Mr. Washburn noted that the applicants have the required frontage. It was explained that the backlot must contain 40 feet of frontage in which the driveway access must be located. The remaining lot has the required 200 feet of frontage.

The Board advised the applicants that they could withdraw the application and resubmit.

Mrs. Tyrell commented on the Boteau property with regard to the shared driveway. Ms. Belcher explained that was a subdivision and site plan review.

Mr. Day made a motion to deny the application as the applicant has not demonstrated compliance with the Zoning Ordinance, Article IX, Section B.7 which states that access to a backlot must be located in the 40' area.

Mr. Fillio seconded. The motion passed unanimously.

It was noted the lot numbering system was not correct. The original lot number 6-1-1 at 10-1 Giles Road will remain and the second lot would be identified as 6-144 at 105 Giles Road.

Public Hearing for Henry F. Lewandowski, Trustee HFL Family Trust and Lewandowski Family Trust, 76 Haverhill Road, TMBL 9-1-7 and 70 Haverhill Road-TMBL 9-1-1 for a proposed lot line adjustment

Mr. Dennis Quintal, Engineer and Mr. Lewandowski were present.

Mr. Quintal presented plans to the board which depict the adjustment of lot lines between lots 9-1-7 and 9-1-1 by adding 5,070 square feet to lot 9-1-7.

Mr. Quintal addressed the report prepared by Ms. Carriel, RPC. Text in bold is the report text from Ms. Carriel with the Board resolution, decision or action following for each of the 15 items noted as follows:

1. **The "Current Owners of Record" block should include the lot numbers. As currently shown, it is unclear which owner owns which lot.**

Mr. Quintal noted he would correct this issue.

2. **Is there a recorded cross-easement for the driveway which connects the lots? If so, the lot line adjustment may result in the need to amend the language of that easement.**

Mr. Lewandowski explained that language exists within his deed for the easement for a secondary access point.

3. **Are there any wetlands on either lot? If so, the edges of the wetland should be mapped.**

Mr. Lewandowski showed the board members the location of the drainage swale which crosses both lots. The board felt this information did not need to be mapped given that the adjustment is located in an area not adjacent to this swale area.

4. **Building setbacks from property lines and poorly and very poorly drained soils should be added to the plan.**

Mr. Quintal noted the location of the existing garage. The board felt that this was a minor lot line adjustment that the soils did not have to be added to the plans.

5. **The plans need the stamp and signature of the Licensed Land Surveyor.**

Mr. Quintal noted this would be provided.

6. **A Certification of Monumentation will be required prior to final approval.**

Mr. Quintal noted that this would be provided.

Mr. Fillio made a motion to accept the plans for jurisdiction.

Mr. Day seconded. The motion passed unanimously.

No abutters were present.

Mrs. Belcher made a motion to approve the lot line adjustment provided that a certificate of monumentation be completed, the current owners of record block be corrected with the appropriate names and the plans are stamped and signed by a licensed land surveyor.

Mr. Fillio seconded. The motion passed unanimously.

Kevin Fitzgibbons. Discussion Purposes Only-Carmen's Restaurant

It was noted that this discussion is non-binding by either the Board or the applicant.

Mr. Fitzgibbons was present. It was noted that a conditional approval was granted to Mr. Julien Dunlop to remove the existing restaurant and replace with a new structure. As of this date, the demolition permit was issued, however the conditions of approval for the site plan review have not been fulfilled and thus has not been recorded at the Registry of Deeds.

Mr. Fitzgibbons explained to the Board that he has been discussing with Mr. Dunlop the purchase of the property and to convert the existing home and barn into the restaurant and not construct a new building. He noted that the area that would have been used for the new building would be part of the parking area. He also described this as being a six day per week, lunch and dinner restaurant (3-9 p.m.). He noted he has talked to the Zoning Board of Adjustment Chairman to obtain a variance to use the existing house and barn. It was noted that this property is considered legal non-conforming and another alternative would be to have that parcel re-zoned. It was noted that the house and barn were not used as part

of the former restaurant, that was housed in a separate building.

The board discussed with Mr. Fitzgibbon the procedure and documentation needed for a variance, the grandfathering issue of the previous restaurant building which has been torn down, non-conforming uses and grandfathering. The board also discussed the time frame in which Mr. Fitzgibbon would be working under and the issue that Mr. Dunlop is intending on breaking ground in the next few weeks for the new restaurant.

It was noted that the Planning Board could not proceed until a decision was reached by the Zoning Board of Adjustment, provided a variance was received.

Mr. Fitzgibbon thanked the board for their time.

Dr. Marston made a motion to adjourn at 10:05 p.m.

Mr. Fillio seconded. The motion passed unanimously.

Respectfully submitted,

Susan J. Rice, Secretary
East Kingston Planning Board

Completed: April 20, 2003
Accepted: _____