

TOWN OF EAST KINGSTON, NH
PLANNING BOARD MEETING MINUTES
April 20, 2000

FILE

AGENDA

7:15 Joseph Giannino – 17 North Road Home Occupation – Public Hearing
7:30 Future Land Use Chapter - Discussion

Members attending: Richard A. Smith Sr. - Chairman, Edward C. Johnson – Vice-Chairman, John L. Fillio - Ex-officio, Dr. Robert Marston, Beverly A. Fillio and Alternate Members David Morse and Peter A. Riley.

Absent: Alternate Robert Nigrello.

Others attending: James Nupp – Conservation Commission Member, Sarah Campbell – RPC Planner (7:55), J. Roby Day, Joseph Giannino, Alan Mazur – Fire Chief, Andy Conti– Fire Department Captain, and Marjorie Damon.

Chairman Smith opened this April 20, 2000 public Planning Board meeting held at the East Kingston Town Hall at 7:09 p.m. with the roll call.

Planning Board Minutes: The board reviewed minutes dated February 7, 2000. Members eligible to vote on their acceptance were Chairman Smith, Mr. Fillio and Mr. Riley.

MOTION: Mr. Fillio motioned to approve the February 7, 2000 Planning Board minutes as presented. Mr. Riley seconded. With no further discussion, the motion carried 3-0.

The board reviewed minutes dated March 16, 2000. Members eligible to vote on their acceptance were Chairman Smith, Mr. Fillio, Dr. Marston and Mrs. Fillio. It was noted that corrections to these minutes were made at the request of the Conservation Commission Chairman.

MOTION: Mrs. Fillio motioned to approve the March 16, 2000 Planning Board minutes as corrected. Dr. Marston seconded. With no further discussion, the motion carried 4-0.

Incoming Correspondence: Chairman Smith acknowledged the following incoming correspondence:

1. NHDES – Correction to the April 6, 2000 report regarding the Colanton golf course;
2. US Senator John Sununu – House Bill 2373;
3. US Senator Charlie Bass – House Bill 2373;
4. OSP – Feasibility applications and deadlines;
5. OSP – Reminder of audit requirements; and
6. NPS Newsletter.

Circuit Rider Contract: Members reviewed the Rockingham Planning Commission proposed circuit rider planner assistant contract to cover a 12 month period beginning April 1, 2000 through March 31, 2001. The contract would provide eleven hours per month of service to the town at a cost of \$4,620 with three \$1,540 installments due at various times. It was noted that this expenditure has been budgeted for. Members expressed their appreciation for planner services provided thus far and specifically stated that Sarah Campbell does an excellent job supporting the board.

MOTION: Mrs. Fillio motioned that the Planning Board Chairman compose a letter of appreciation to Mrs. Campbell informing her of the board's gratitude for her efforts in supporting them. Mr. Riley seconded commenting that he thinks Mrs. Campbell does a great job.

DISCUSSION: It was requested that a copy of this letter be forwarded to the Rockingham Planning Commission and the East Kingston Conservation Commission.

The motion carried 7-0 (all members present voted).

For the record, Chairman Smith signed the RPC Circuit Rider contract that would be forwarded to the Board of Selectmen for approval and payment of the first installment.

Senate Bill S 1028: Members acknowledged that House Bill 2372 was passed by the House Judiciary Committee and that it would now go before the Senate as Senate Bill S 1028. HB 2372 would allow local board decisions to be appealed at the federal level bypassing local and state relief. Opposition to the bill cites monetary issues as well as allowing landowners to raise constitutional issues in federal court before appealing a local decision in a state court as disastrous. Members were in agreement to send resolutions to NH Senators Bob Smith and Judd Gregg. A prepared resolution was signed by each member.

Joseph Giannino – 17 North Road Home Occupation– Public Hearing : Chairman Smith opened the public hearing at 7:22 p.m. for Joseph Giannino, a resident and property owner of 17 North Road, MBL# 14-02-10. Mr. Giannino is proposing the operation of a plant wholesale business office at this residence.

Mr. Giannino stated that he is a plant broker representing 35 national companies and selling to over 100 garden centers throughout New England. He basically sends out catalogues from his suppliers and orders are shipped directly to the customer. He has been in this type of business for 16 years. He is also a full-time Revere firefighter.

When asked if any product is shipped to his residence, Mr. Giannino replied that if a customer is in a jam, he might pick up some product with his own unmarked van and deliver it to that customer. He stressed that he is not running a redistribution center, he is a broker that believes in quality service. He has taken product home four times since January 2000.

Mr. Riley then remarked on his eyewitness of product at the Giannino premises this past week and Mr. Giannino responded that what Mr. Riley saw was Giannino's personal purchases for family members, friends and accounts. Mr. Riley stated he had no objections to this.

Noting Mr. Giannino's defensiveness to Mr. Riley's comment, Mrs. Fillio stated that last month's meeting where discussion was held on Mr. Giannino's brokerage proposal, there seemed to be a little confusion regarding the home occupation process. She apologized for that and further stated that the board has had to tighten up its process because past applicants have not followed through with their business proposals – "They promised the board a garden, but gave them a thorn patch."

Upon board inquiry Mr. Giannino stated that there would be no signage at the premises or on the commercial van. There is only one non-resident employee who works at the premises two to three days a week. He even brought catalogues to show the board he is a brokerage, not a redistribution outfit. He was then informed that any type of expansion of the business must be re-applied for. He stated that he just wants to run an honest business. He didn't even know he needed a business permit; he went to the town office and asked about it.

Noting the residence was located on a state road and that it had over eight acres, the business was eligible to have up to four non-resident employees and have as much as 50% of the gross floor space of the home for the business. The board then reviewed the following home occupation standards:

- 10.3.1 – The business is located in the house.
- 10.3.2 – No evidence of the business; not even a sign will be displayed.
- 10.3.3 – Only one unmarked commercial vehicle at the premises.
- 10.3.4 – Off street parking available although not needed for this type of business.
- 10.3.5 – Business is conducted by a resident of the premises.
- 10.3.6 – The business would not emit smoke, dust, odor, noise, gas, fumes, light or refuse matter.
- 10.3.7 – No hazardous traffic: actually less than previous owners.
- 10.3.8 – 50% of gross space is allowed: Using only one room with two computers, a fax machine, a copy machine, and two desks.
- 10.3.9 – Only one non-resident employee: part-time at that.

Chairman Smith then opened discussion to any abutters present. Mrs. Marjorie Damon of 71 Main Street stated that she had no objections to the business.

Fire Chief Alan Mazur stated that he too, had no problems with the business.

MOTION: Mr. Fillio motioned to recommend the Board of Selectmen *APPROVE* this application for home occupation as presented and to further exempt the applicant from the annual permitting procedures based on the Board's

determination that the nature of the business falls under Article 10.6*. Dr. Marston seconded. With no further discussion, the motion carried 5-0.

*Article 10.6

An annual permit to operate each home occupation must be obtained from the Board of Selectmen during the second quarter of the calendar year beginning in 1989...

...Businesses whose owners can demonstrate that they do not create 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. (Adopted 3/97)

It was then explained to Mr. Giannino that this recommendation would be forwarded to the Board of Selectmen who would make the final decision on the application. The three options before the Selectmen would be:

1. Approve the application and issue a home occupation permit (with or without conditions);
2. Approve the application and exempt it from the annual permit procedure (with or without conditions); or
3. Deny the application.

It was likely this application would go before the Selectmen the following Monday (May 1st). Mr. Giannino was advised to contact the Selectmen's office to confirm this so he could be present to answer any questions the selectmen might have. He stated that he would not be available to attend such a meeting this Monday. Mr. Fillio offered to speak on his behalf and further noted that formal notification would be sent to Mr. Giannino informing him of the Selectmen's decision. Chairman Smith closed this public hearing at 7:37 p.m.

Powwow Pond Report: James Nupp, Conservation Commission member and participant in the New Hampshire Volunteer Lake Assessment Program reported that they have been monitoring the Powwow Pond for one year, but that it could take up to ten years of monitoring to determine any trends. Water is checked for clarity and quality. A complete report is available at the Conservation Commission Office.

He went on to say that monitoring is done from May and throughout the summer. Kingston has been doing it for several years and has been assisting East Kingston with its monitoring. It turns out that Powwow Pond is one of the better lakes in the state.

Members stated that bringing septic systems up to code along the river has been helpful.

Mr. Nupp elaborated that five locations were monitored last year in the months of May, July and August. This program did not test fecal content, but the camp on Haverhill Road tests for it. The State will only test State swimming areas.

Future Land Use and Acquisition: Discussion regarding centralizing town facilities transpired. Whether or not the town would ever acquire the Kennerly property, or portions of it, remains to be seen. It was noted that the new owners of the property are the Davis'. There has been discussion of approaching the current owners for a land donation or land purchase. Different strategies could be implemented; i.e. long-term lease arrangement, outright purchase, tax relief opportunities.

It was noted that the Lamson property (Depot) was on the market and that this property would be ideal for housing the Historical Committee. Obtaining a state grant to purchase the property was discussed as well as the fact that any land protection/building protection grants would need to be matched.

At this time Mrs. Campbell entered the meeting (7:55 p.m.).

Members then commented on the property located at 10 North Road. It was stated that the town should have kept the property, when they acquired it, to house the fire and police departments.

Elderly Housing Ordinance: Mr. Nupp stated that because the elderly housing ordinance prohibits any assisted living facilities, it may be difficult to execute age restricted individual homes. Realistically, any elderly person seeking long-term residency would opt for some sort of assisted living facilities. Attracting elderly people and getting them to stay might require allowing assisted living.

Members agreed and stated that they would consider an amendment for next year's ballot. The issue was then placed on the back burner list.

Future Land Use Chapter: Members spent extensive time reviewing the latest draft of the Future Land Use Map presented by Mrs. Campbell. Mrs. Campbell recommended the map be printed in color when placed in the Master Plan. Members acknowledged the color coding and noted the following items needing correction:

1. Remove the Rosenberg property from proposed protected lands.
2. Add newly acquired golf course land on Depot Road.
3. Add LaNoria Development subdivision and road.
4. Show Robin Lane on map.
5. Show new house lots on Sanborn Road
6. Show developed land on Willow Road
7. Update Bodwell development.
8. Add railroad bridge on Giles Road.

Members noted protected lands, low potential for development lands, and developable lands. It was mentioned that letters were sent out to large landowners for current use and conservation easement consideration. Very little response was received; it might be wise to send out another letter.

Members then focused on the Future Land Use Chapter. Several suggestions and corrections were voiced regarding clarification and explanations regarding the anticipation of property tax increases needed to offset the lack of non-residential uses in town. Members were cautious not to report negatively when trying to encourage more non-residential development. Suggestions in format were also given as well as visual graphs to support the chapter's information.

Protecting the main entrances into town was discussed along with establishing a capital reserve fund to protect land from future development. With federal funding limited, a capital reserve fund may be another way of purchases specific parcels for protection placement.

Further review of the Future Land Use Chapter noted that the town receives no revenues from the new natural gas pipeline installed a few years ago. The state receives all revenues. Considering the small size of East Kingston and the large amount of pipeline running through it, the town has taken a huge revenue loss. The town of Newington is suing the state over their loss of revenues; East Kingston should keep an eye on this case.

Mrs. Campbell stated that she would incorporate the changes and suggestions made by the board into the chapter and present another draft at the next meeting. She also stated that the RPC Circuit Rider contract does not include any work sessions. If some are needed, it would be wise to include them in the new contract.

With no further business,

MOTION: Dr. Marston motioned to adjourn. Mrs. Fillio seconded. The motion passed 5-0 and this April 20, 2000 Planning Board meeting ended at 9:41 p.m.

Respectfully submitted, 

Catherine Belcher
Secretary

Minutes completed and on file April 24, 2000.

Approved: 5/18/00