



PLANNING BOARD  
TOWN OF EAST KINGSTON  
New Hampshire

2016-2017  
Joe Cacciatore, *Chairman*  
Dr. Robert Marston, *Vice Chairman*

**MINUTES**  
Regular Meeting 21 April 2016  
7:00 pm

**AGENDA:**

- ◆ **Call to Order**
- ◆ **Change of Tenant Review** for Bradley Jamieson for Down to Earth Garden Shoppe (Heidi Corson) at 14 Powwow River Road, MBL 10-03-09 (EK PB 16-A)
- ◆ **Review and Approval** of a **Voluntary Lot Merger** for Kenridge Farm LLC for lots 16-04-08 (191 North Rd.) and 16-04-12 (195 North Rd.) - EK PB 16-01
- ◆ **Public Hearing** for Subdivision Application for APEX Realty Trust, 136 North Road (MBL 16-03-08) for a 3 lot subdivision. EK PB 16-02

**CALL TO ORDER:** This meeting of the East Kingston Planning Board was called to order at 7:00 pm.

**ROLL CALL:** Mrs. White called the roll.

**Members Present:** Chairman Joe Cacciatore, Vice Chairman Dr. R. Marston, Mr. J. Bath, Mr. C. Delling, Mr. B. Caswell, and Ex-Officio Ms. E. Pettinato.

**Advisors present:** Rockingham Planning Commission (RPC) Senior Planner Ms. J. LaBranche, East Kingston Building Inspector Mr. John Moreau, East Kingston Assistant Building Inspector Mr. Tom Welch, East Kingston Fire Chief Ed Warren, East Kingston Town Engineer Dennis Quintal.

**Also present:** Ms. Heidi Corson, Mr. Florian Kozinczak (APEX Realty Trust), Mr. Robert Stowell P.E., L.L.S. (Tritech Eng. Corp.), abutter Scott Szuba and several other attendees.

**Board Business**

Mr. Cacciatore opened the meeting at 7:00.

**Change of Tenant Review for Bradley Jamieson for Down to Earth Garden Shoppe (Heidi Corson) at 14 Powwow River Road, MBL 10-03-09 (EK PB 16-A)**

Mr. Cacciatore asked Ms. Corson to tell the Board about her business. Ms. Corson explained she would be utilizing the greenhouse and Unit 3 for her business (Down to Earth Garden Shoppe) and would be offering flowers in containers, cut flowers and hand-made gifts for sale. Ms. Corson had indicated working hours of 10-6 Tuesday or Wednesday and Sunday noon to 5pm. Mr. Cacciatore suggested she request more hours so she would not need to come back before the Board to add hours or days of operation. Ms. Corson amended her application for working hours of 10:00 am - 6:00 Monday through Sunday. Mr. Cacciatore explained she could work any hours within those that were approved without the need to come back before the Board.

Mrs. White read the list of already approved conditions for the greenhouse, which include the sale of plants (flowers & vegetables), associated greenhouse items (garden statues, etc.), giftware (bird houses, etc), and a small farmer's market. Ms. Corson agreed that was pretty much what she was going to do and she would be happy with those conditions. Her hours of operation were approved for 10:00 am to 6:00 pm Monday through Sunday.

In addition to the above listed conditions, trash will need to be provided by the complex owner, any changes to these conditions will need to come before the Planning Board, and all outstanding bills are to be paid to the Town. These items will appear on the conditional approval.

Mrs. White asked if an updated water usage table was necessary with the addition of the new tenant; Ms. LaBranche acknowledged it was necessary. Mrs. White will contact Mr. Jamieson and let him know he needs to update the table and submit to the Planning Board.

Mr. Cacciatore asked for a **MOTION**.

Mr. Bath **MOVED** the Board approve the tenancy of Heidi Corson dba Down to Earth Garden Shoppe at 14 Powwow River Rd. with the above list of conditions; Dr. Marston seconded; the motion was unanimous.

Ms. Corson thanked the Board for their time. Mrs. White will send a copy of the Notice of Decision to both Ms. Corson and Mr. Jamieson (the complex owner).

Ms. Pettinato joined the Table. Mr. Cacciatore welcomed her to the Board and introduced her as the new Member of the Board of Selectmen and Ex-Officio to the Planning Board.

**Review and Approval of a Voluntary Lot Merger for Kenridge Farm LLC for lots 16-04-08 (191 North Rd.) and 16-04-12 (195 North Rd.) - EK PB 16-01**

Mrs. White explained that Mrs. Martell did not have the accompanying paperwork to present along with the VLM Form, so this would need to be continued to the May agenda.

Ms. LaBranche determined a lot line adjustment (LLA) would be what was necessary and not a Voluntary Lot Merger. Mrs. Martell will need to come before the Board as such and the LLA would need to be noticed.

Mrs. White will inform Mrs. Martell what process she would need to follow and application deadlines for inclusion on the May or June agendas.

**Public Hearing for Subdivision Application for APEX Realty Trust, 136 North Road (MBL 16-03-08) for a 3 lot subdivision. EK PB 16-02**

Mr. Stowell, acting as Mr. Kozinczak's representative, explained he had come before the Board last month to clarify some items before he submitted the subdivision application and could not show his plans at that time.

He had submitted a plan, which was distributed to the Board members and upon review by Ms. LaBranche (RPC Planner for the Board), was instructed to make some changes. He distributed new plans to show the Board tonight which incorporated the requested changes.

Mr. Stowell explained the parcel of land is 8.4 acres and they were proposing to divide the property into 3 lots, one being a back lot which is where the existing house sits.

He explained although they had adequate frontage to give each of the three lots 200' of frontage, they were proposing a back lot to use the existing driveway as access to two of the lots as a shared drive. As this property had already been subdivided in the past, there were only two available driveway cuts left for the entire parcel, one being the driveway to the existing house.

Mr. Stowell noted they had submitted an application to DOT to alter the existing driveway as a shared drive.

They had dug test pits, performed by Soil Scientist Mike Mariano, which were witnessed by the Building Inspector.

The test pits on 8.2 (the larger lot) did not meet the threshold for permeable soil which is 2 feet (as per Article VII.D.7.4). Mr. Stowell noted that VII.D.7.b) gives the opportunity to create the required depth by placing fill onto the subsoil to meet the criteria and acquiring any necessary state or local permits. There was no state permit necessary to add fill onto the Somewhat Poorly Drained Soil (SPDS) to meet the depth. Mr. Stowell referred to Sheet SS-1 which shows soil supplemented to a depth of 24" for the septic system.

Last month they had spoken to the Fire Chief about the two water sources that are in close proximity so no additional fire protection is necessary.

They have received the State Subdivision Approval and submitted a copy of that paperwork. They have not received the NH DOT permit yet.

Mr. Bath referred to regulation VII.A. which states... *"that to the maximum extent possible, all newly created lots shall be rectangular in shape...and at no point shall any lot be narrower than 125'*. He pointed out that the pie-shaped lots have very much less than the 125' in width. Mr. Stowell noted they had chosen the shape of the lots for functionality, but could certainly adjust that if the Board so desired.

Dr. Marston pointed out one of the abutters names was misspelled on the plan. Mr. Stowell will correct the spelling.

Mr. Bath asked if this plan meets the guidelines for Poorly Drained Soils (PDS). Mr. Stowell noted Ms. LaBranche had alerted him to this and that was the reason for the new plan.

Mr. Moreau questioned if they could use the lot with the existing house as the back lot. Mr. Stowell stated his interpretation of the ordinance was any of the lots could be the back lot; Mr. Bath agreed.

Mr. Cacciatore opened the floor to abutters; there being none, he closed the floor.

Mr. Cacciatore asked if the Board felt the plan was complete enough to take jurisdiction.

Mr. Bath **MOVED** that the Board take jurisdiction of the subdivision application for APEX Realty Trust for the 3-lot subdivision; Mr. Delling seconded; the motion was unanimous.

Ms. LaBranche noted Mr. Quintal, Town Engineer, had reviewed the plan and had submitted an engineering review for the Board. Items in the review include:

# 2	<p>Board needs to determine if it meets the intent of Zoning for a back lot.</p> <ul style="list-style-type: none"> <li>• <i>Previous discussion determined it did meet the intent for a back lot.</i></li> </ul>
# 3	<p>Subdivision Section VII A - each proposed lot to be rectangular and no narrower than 125'.</p> <ul style="list-style-type: none"> <li>• <i>If it stays as represented on the plan provided to the Board evening, a <b>waiver</b> would be needed for both of these items.</i></li> </ul>
# 4	<p>Subdivision Section VII.F - requires each lot to have their own driveway and each shall be 10' off the abutting property.</p> <ul style="list-style-type: none"> <li>• <i>A <b>waiver</b> is required for a shared drive.</i></li> </ul>
# 5	<p>Two test pits 50' apart and a percolation test are required. It does not appear the test pits are the required 50' apart. Also the plan does not show the perc tests. The plan must show the location of those tests and the results.</p> <ul style="list-style-type: none"> <li>• <i>The Building Inspector has witnessed the test pits, but not the perc tests.</i></li> </ul>
# 6	<p>Plan does not show the location /distances to the nearest water source from each of the lot boundaries.</p>
# 7	<p>Proposed lot 3-8-2 shows building area is Somewhat Poorly Drained Soils (SPDS).</p> <ul style="list-style-type: none"> <li>• <i>Board will need to decide if the regulations intend to allow proposed lots with only SPDC land to be an acceptable building lot.</i></li> </ul>
# 8	<p>Proposed lot 3-8-2 shows 4000 square foot area as “suitable area”.</p> <p>Zoning Article VII.D.7.a) states the receiving layer for an effluent disposal system shall meet the following criteria <u>before a site is considered suitable for modification</u> as needed for system design” is interpreted to be in its natural state without modification; a) 4) States there must be two feet of permeable soil above any impermeable subsoil; and a) 6) States the receiving layer to be under and extend 35 feet down gradient from a proposed effluent disposal area.</p> <p>The applicant has noted that Ordinance VII.7.b) states "The two feet of permeable soil above any impermeable subsoil required by paragraph (a)(4) "...may be created by placing fill onto the subsoil, as long as the fill meets the criteria in the ordinance and any required State or local permits are obtained." <i>Mr. Quintal feels this is open to interpretation and should be discussed.</i></p> <ul style="list-style-type: none"> <li>• <i>The review also states with a test pit in this area showing seasonal water table at 15” &amp; 18” and restrictive layers of 18” and 20”, Mr. Quintal does not believe this designated receiving area meets the requirement.</i></li> </ul>
# 9	<p>The sample Individual Sewage Disposal System Plan for Lot 3-8-2 shows percolation rate of 18 minutes per inch at a 20 inch depth. The test pit results show the soil to be Silt Loam with a restrictive layer at 20 inch depth and observed water at 24 inches.</p> <ul style="list-style-type: none"> <li>• <i>Mr. Quintal recommends that percolation tests on this lot be witnessed by the Town.</i></li> </ul>
#10	<p>Recommendation is that monuments be placed no more than 200 feet along long lot lines.</p>
#11	<p>Recommend that prior to Subdivision Approval on this property, that the Planning Board members or their Agents conduct a site walk and inspection.</p>

Mr. Stowell answered the Town Engineer's bullet points:

1. He stated they believe the backlot as they represent it meets the intent of the ordinance. Although the shape of the lots is not rectangular, they designed the functionality of the lots more around where a house would be built. The original lot is wider in the front than in the back. They could ask for a waiver from the shape or can reconfigure it to more meet the ordinance. Mr. Bath was concerned not only with the shape but the fact the lots were significantly narrower in the rear than the 125' stated in the ordinance. Ms. LaBranche agreed there was room to alter the configuration. After discussion, the applicant will reconfigure the shape of the lots to more meet the ordinance so as not to require a waiver.

4. Ms. LaBranche noted that although the ordinance stated each building lot shall have their own driveway, it was according to state and Town regulations and as the State would not allow each of the lots to have their own driveway cut, it would be allowable for a shared driveway. Mr. Stowell noted that they would be proposing the shared driveway to start at the existing driveway. He stated in answer to Mr. Quintal's question, the driveway is more than 10' off the property line. They will ask for a waiver for this item.

Ms. LaBranche stated the DOT noted the driveway has to be shared for a distance perpendicular from the street for a distance of 30 feet and can then branch off and for separate access. There would also need to be easement documents drawn up for the property owners for the shared driveway. Mr. Stowell also noted that they would be taking advantage of the back lot provision as the driveways would be so close to each other.

5. Mr. Stowell explained that the intent of the test pits was for them to be 50' apart and there was suitable separation to show it was not just one soil type; Mr. Quintal noted his measurements might be off a little.

6. Mr. Stowell noted that last month the Fire Chief did measure off the distances to the nearest water source and he would include that on the amended plan.

7. Mr. Stowell noted it is not a 25% slope, not a floodplain, not Very Poorly Drained or Poorly Drained; SPDS was within the category of buildable land and meets the state requirement for effluent disposal.

8. Mr. Stowell noted upon reading VII.D.7, he had a different interpretation than Mr. Quintal. VII. 7. a) Receiving Layer states: *"Receiving layer for an effluent disposal system shall meet the following criteria before a site is considered suitable for modification, as needed, for system design and approval."* If it needs modification before you build a septic system, it would have to meet the criteria and paragraph b) is very specific on what you can do to meet the requirement. *"...The two feet of permeable soil above any impermeable subsoil required by paragraph (a)(4) "...may be created by placing fill onto the subsoil, as long as the fill meets the criteria in the ordinance and any required State or local permits are obtained."* Mr. Stowell has shown this on the plan on sheet SS-1.

9. References the perc test. Mr. Stowell explained he was not aware it needed to be witnessed by the Town, but it was performed by the Soil Scientist. They will make arrangements for the Building Inspector to witness the perc test.

10. They will make sure there are monuments placed every 200'. He knows granite bounds will be placed on the corners and asked what they wanted the monuments to be. Mr. Quintal noted they typically use iron pipes or iron rods.

11. Site Walk.

Mr. Caswell asked what was the difference between poorly drained soil and somewhat poorly drained soil and was is expressed in the percolation rate? Mr. Stowell answered it was the depth of seasonal high water and composition of the soil using national standards. The Soil Scientist has list of criteria for the classifications. Mr. Caswell asked if it was considered wetlands? Mr. Stowell answered it was not. Poorly Drained or Very Poorly Drained was considered wetlands, but Somewhat Poorly Drained was not.

Ms. LaBranche suggested any approval of the plan include a designation of the buildable area on the lot, specifically where the building can be placed, as there is a very little wiggle room between the minimum distances between the septic leach field and the distance from the wetlands and from the well. To show the septic system location with appropriate setbacks for any building. Mr. Stowell noted he could add that information.

After Board discussion, Mr. Stowell noted he will reconfigure the lots to meet the 125' specification in the ordinance so no waiver will be required.

Mr. Cacciatore reviewed the changes that would need to be made to the plan.

- **Waiver** for the shared driveway.
- **Add** the location and distance to the nearest fire suppression water source from each of the lot boundaries.
- **Add** monuments every 200 feet on plan.
- **Add** the designation of the buildable area with setbacks on the plan.
- **Correct** the spelling of the abutter (Szuba and not Szubay).
- The percolation test must be **witnessed** by the Building Inspector.
- **Site Walk** - the Board discussed this and decided on Thursday, April 28 at 5:00 pm.  
Ms. LaBranche will take notes.

Mrs. White reminded Mr. Stowell to contact the Selectman's Office for official lot numbers. Ms. LaBranche noted waivers would need to be submitted in writing.

Mr. Scott Szuba, 140 North Road, asked to make a statement as he had come in late. He stated there were lots of wetlands on the third lot, there is very little upland by the road and everything flows down to Great Brook. He was very concerned about the small amount of buildable area. Mr. Cacciatore and Mr. Bath ensured Mr. Szuba the amount of buildable land and setbacks would have to be met to allow the lot.

Mr. Stowell corroborated that the next meeting was May 19 and asked when they needed the materials to the Board. Mrs. White noted if she could have the information by May 9th, it would give her time to distribute to the Board members.

Mr. Quintal noted if there was a question about how the wetlands were flagged, the Board had the option to have the Conservation District's Soil Scientist come in to verify the wetland identification.

Mr. Bath asked how close you could build to the wetlands; Mr. Quintal stated Town regulation was 15'. This is in the process of being rewritten to include buffer zones, but that was 1-2 years away. The Board had discussion and came to the consensus they needed to have the Conservation District's Soil Scientist verify the location of the wetland flags and the type of soil. Mr. Quintal noted he was in Town on Wednesdays and might be able to come then. Ms. LaBranche will contact him

Mr. Cacciatore **MOVED** to ask the Conservation District's Soil Scientist verify the wetlands and the type of soil. Mr. Bath seconded; motion was unanimous.

Ms. LaBranche noted they would notify the property owner when they would be coming to verify the wetlands.

Mr. Cacciatore asked for a **MOTION** to continue the public hearing.

Mr. Bath **MOVED** to continue the Public Hearing for Subdivision Application for APEX Realty Trust, 136 North Road (MBL 16-03-08) for a 3 lot subdivision to May 19. Dr. Marston seconded; motion was unanimous.

Mr. Stowell thanked the Board for their time.

### **Other Business**

**Accessory Dwelling Unit Amendments** - Ms. LaBranche will bring these before the Board for review in June.

**Haverhill Road.** Mrs. White reported a person interested in renting out 17 Haverhill Road to sell used cars had contacted her. She will send him the required paperwork and put him on the agenda for next month's meeting. She suggested in light of past problems at the site, the Board might want to have periodic inspections from the Fire Department and Code Enforcement listed on the Notice of Decision. Fire Chief Ed Warren also reported in the past there was work going on at the site that was above and beyond the approvals given but he was denied access to inspect portions of the premises.

**Industrial Park** - Mr. Moreau noted there have been past issues at this site and suggested going forward that certain times for business to be conducted should be set (preferably not 24 hours) when approving a new tenant to avoid confusion of what was allowed and when.

**Kennel Question.** A resident was interested in having a kennel to breed dogs and also boarding them. She will look up some information for her.

**Town Engineer** - Mr. Quintal noted when he became Town Engineer his decision was not to do work for Town residents so there would be no conflict of interest. He is letting the Board know that in cases where he has previously done work, he will accommodate those customers so they do not have to go to the expense of having the work recreated by someone else. In those cases, the Selectmen would need to appoint someone to review the plans.

**Backlot Clarification** - Chief Warren asked for some definition on backlot as what he had perceived it to be was not what was presented on the plan. Several other members had the same question. There was Board discussion and Ms. LaBranche read that section of the ordinance. After discussion it was ascertained the regulation was open to interpretation and did not specify one way or the other which lot needed to be the back lot and also in reality the backlot did not need to actually be *behind* another lot.

**Review of Applications** - Mr. Quintal noted the same as in cases where he would be doing work and another party was necessary to review the application, the same was true for Site Plan procedures in cases where the Board ascertained verification of information was necessary. This cost would be borne by the applicant and the plan would not be approved until all outstanding fees and charges are paid in full.

**Adjournment**

**MOTION:** Dr. Marston **MOVED** the Planning Board adjourn, Mr. Bath seconded. Unanimous approval.

Mr. Cacciatore closed the meeting at 8:10pm.

The next Planning Board meeting will be on May 19, 2016.

Respectfully submitted,

*Barbara White*

Planning Board Secretary

Joseph Cacciatore

Chairman

Minutes approved May 19, 2016.

Attachments:

Corson Decision

Town Engineer's Report

PLANNING BOARD  
TOWN OF EAST KINGSTON  
NEW HAMPSHIRE

21 April 2016

**NOTICE of DECISION**

Notice is hereby given that, on 21 April 2016, the East Kingston Planning Board, at a duly noticed Public Hearing, voted unanimously to **CONDITIONALLY APPROVE** the use of the greenhouse and Unit #3 at 14 Powwow River Road (MBL 10-03-09) to Heidi Corson dba Down to Earth Garden Shoppe+.

Conditions of the approval include the sale of:

- plants (flowers & vegetables),
- associated greenhouse items (garden statues, etc.),
- giftware (bird houses, etc),
- and a small farmer's market.
- hours of operation approved for 10:00 am to 6:00 pm Monday through Sunday.
- Waste and refuse disposal will need to be provided for by the owner; Town services may not be used.
- Applicant will need to come before the Planning Board for a public hearing each time there is a change of use or a change in approved conditions.
- All outstanding or future fees and charges due the Town and administrative costs incurred by the Town will be fully discharged.

This notice is given pursuant to NH RSA 676:3. Issuance of Decision.

For the Planning Board,

*Barbara A. White*

Barbara A. White,  
Recording Secretary

Posted: 26 April 2016 - East Kingston Town Offices, East Kingston Post Office

Distribution:

Ms. Heidi Corson  
Mr. Bradley Jamieson  
Building Inspector

Fire Department  
Board of Selectmen