



PLANNING BOARD  
TOWN OF EAST KINGSTON  
NEW HAMPSHIRE

2007-2008  
David F. Sullivan, Chairman  
Edward Warren, Vice Chairman

**MINUTES**  
(Public Hearing of 15 May 2008)

**AGENDA:**

- 7:00PM - **Board Business**  
7:15PM - **Public Hearing** for Julian Dunlop, 45 Stumpfield Road, Kensington, regarding a change in tenancy for Carmen's Diner, 89 Main Street, EK (MBL#14-02-05) (EKPB #08-OA).  
7:30PM - **Public Hearing** for a Lot Line Adjustment between Cynthia Sullivan, 42 Clement Lane, EK (MBL#11-03-08) and Robin Hudson, 30 Clement Lane, EK (MBL#11-03-09) (EKPB#08-04).  
7:45PM - **Public Hearing** for a lot line adjustment between Norman and Carol Freeman (Honey Bee Trust), (MBL 09-08-01) 52 Main Street, EK and Granite State Gas (18-01GSGC) (PB #08-03)  
8:00PM - **Continued Board Business**  
8:10PM - **Adjournment**

**CALL TO ORDER:** The regular meeting of the East Kingston Planning Board was called to order at 7:05PM.

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

**Members present** - Dr. RA Marston, Mr. RF Morales, Mr. DF Sullivan, Mr. E Warren, and Mr. D Pendell, ex-officio.

**Alternate members present** –Mr. R Forrest and Mr. J Cacciatore did not attend.

**Advisors present** – Eric S. Steltzer, Planner, Rockingham Planning Commission (RPC)  
Raymond R Donald, East Kingston Building Inspector  
Andy Conte, Captain, East Kingston Fire Department

**Minutes.** Mrs. White asked if there were any changes or corrections noted to the 18 April 2008 minutes. Mr. LK Smith and Mr. Morales had previously submitted corrections and they had been noted.

*Below are Mr. Smith's changes for the May 15<sup>TH</sup> minutes.*

Mr. Smith noted three paragraphs on Page 6 of the April 17<sup>th</sup> minutes should read as follows:

***Rockingham Planning Commission.*** Mr. Steltzer noted that Mr. Day had turned in his resignation to the Rockingham Planning Commission, and that Mr. LK Smith's term had expired. Presently, there was no RPC Commission representation for the Town of East Kingston. This position meets ten (10) times per year.

***Municipal Planning Organization (MPO).*** This is an entity that exists in order to receive federal dollars for transportation funding. The MPO meets on a quarterly basis.

*Both the RPC and the MPO are in need of representation by the Town. Mr. Steltzer noted there is a large overlap between the MPO representing the community, and those who are RPC representatives. RPC Commissioners constitute the MPO Policy Committee.*

Mr. Morales offered two minor typographical changes. There were no other comments or changes offered. Dr. Marston, Mr. Sullivan, Mr. Morales, Mr. Warren, and Mr. Caron were present at the April 17<sup>th</sup> meeting and will vote on the minutes.

Mr. Sullivan entertained a motion to approve the minutes.

**MOTION:** Mr. Morales **MOVED** the Planning Board approve the 17 April 2008 minutes with changes as presented. Mr. Warren seconded. The motion passed unanimously.

**Voting members** – Chairman David Sullivan announced that voting members for tonight’s meeting would consist of Dr. Marston, Mr. Morales, Mr. Warren, Mr. Pendell and himself.

***Change in alternate/regular members.*** Mr. Sullivan announced that due to Mr. Forrest’s prior obligations, the Board of Selectmen had decided to appoint him as an alternate member rather than a full member. Mr. Warren was changed from an alternate member to a full member.

***Election of Vice Chairman.*** Mr. Morales asked if Mr. Warren was still interested in serving as Vice Chairman for a term of one year. Mr. Warren stated that if the rest of the Board would aid him in the process, as he was new, he would be glad to serve.

**MOTION:** Mr. Morales **MOVED** the Planning Board nominate Edward Warren for Vice Chairman for a term of one year. Mr. Pendell seconded. All members were in favor and the vote was unanimous.

Congratulations and welcome new Vice Chairman Ed Warren.

#### **HANDOUTS TO THE BOARD**

***Letter from the ZBA.*** The ZBA has sent a letter to the Board asking that the definition of “living space” be added to Article II – Definitions and Article VIII.F. Accessory Dwelling Units. Mr. Morales asked about this and Mrs. White explained that since the proposed change was to an ordinance, the procedure was for the Planning Board to decide on the language they wanted to use. Mrs. White had mocked up a version so the Planning Board could see how it would read. After the Board decided on the language, the next step would be to have a public hearing on the change, and then have it placed as a Warrant Article for next March.

***Letter from the RPC.*** Letter to the Selectmen stating that East Kingston should have two representatives to the RPC; at the present time there are none. East Kingston should also have an MPO representative; there is none at the present time. At the last meeting the Board charged Mrs. White to place an ad for volunteers.

***Town Center District Map and Map/Block/Lot List.*** Insert this into your regulation book at page 7.

***Material Submission Deadline and Public Hearing Date Sheet.*** This list gives the dates of the regular meetings and the deadline for submission of materials for public hearing on those meeting dates.

***Copy of the Comprehensive Shoreland Protection Act.*** This was requested to be distributed to the Board members at the last meeting.

***RPC Annual Meeting.*** The RPC’s Annual Meeting will be held on June 12 at 6pm at the Atkinson Country Club.

***LGC Annual Conference.*** The Local Government Center’s Annual Conference will be held on November 12, 13 and 14 at the Radisson Hotel in Manchester. Program details and registration information will be forthcoming in September.

***Stormwater Management Conference.*** A Low Impact Development Conference and Workshop will be conducted on June 12 from 8am to 4pm at the Great Bay Gallery in Somersworth, NH. For more information and detailed workshop agendas, fees and registration, call 207-221-6699 or [www.fbenvironmental.com](http://www.fbenvironmental.com).

PUBLIC HEARING FOR JULIAN DUNLOP, 45 STUMPFIELD ROAD, KENSINGTON, REGARDING A CHANGE IN TENANCY FOR CARMEN'S DINER, 89 MAIN STREET, EAST KINGSTON (MBL#14-02-05) (EKPB #08-OA).

Mr. Sullivan opened the Public Hearing for Julian Dunlop/Carmen's Diner for a change of tenancy.

Mr. Sullivan welcomed Mr. Julian Dunlop and Ms. Keri Marshall of Marshall Law, 47 Depot Road, East Kingston. Ms. Marshall explained that Mr. Dunlop owned the building and that the subtenant had moved out. Mr. Dunlop was now planning on re-opening the restaurant and running it himself. Mr. Dunlop stated that he would keep the same name, and in answer to a question regarding the upstairs, he stated that he realized he would need to provide handicapped access to use the upstairs for anything but a mechanical room so there were no planned changes there. The basement level would be used for storage.

Mr. Morales inquired why the original documents had specified the spruce trees were to be planted on the side of the building, and asked if it was for a buffer zone between the restaurant and existing residential houses. Mr. Dunlop remembered it had been to minimize the large expanse of the red building. Mr. Morales observed that they were doing a nice job on the landscaping.

There was Board discussion regarding the original permit for the restaurant and the fact that since it was a grandfathered business in a residential zone, the footprint of the original building had had to be kept the same.

Mr. Morales asked what hours Mr. Dunlop intended on being open. Mr. Dunlop stated he wanted to be open from 7:00am to 2:00 pm Monday through Wednesday, with an hour before and after opening and closing hours for preparation and cleanup. He also wanted to be open on Thursday, Friday and Saturday from 7:00am to 8:00pm, and Sunday from 7:00am to 3:00pm, again with an hour before and after opening and closing hours for preparation and cleanup. There was seating for 40 on the main floor of the building. Nothing was changing from the original terms of approval.

Mr. Warren had reviewed the plans and he had no concerns, as it seemed nothing was going to change from the original plan presented in 2002.

Mr. Donald stated his understanding had been that the Planning Board had approved seating for 40 and only on the main floor. The attic was to be utilized as a mechanical room and the basement was only to be used for storage. He reminded the applicant that if he intended on any changes from what had been previously approved, he would need to come back before the Planning Board and/or to the Building Inspector.

Fire Captain Conti reviewed the letter of inspection from Fire Chief Richard, which stated that with the exception of some small items, there was no reason to withhold the issuance of a Place of Assembly permit once the re-inspection showed those items had been corrected.

Mr. Sullivan opened the floor to abutters.

***Mr. Steve Amundson, 5 North Road.*** Mr. Amundson stated that he had no objection to the business itself, but had spoken to the previous tenant before and left messages for the landlord (Mr. Dunlop) regarding the lights from the cars shining into his house. He had wanted to discuss jointly installing a fence so the lights would not be so much of an issue. Since he had not had any luck with the previous tenant and had not heard from Mr. Dunlop, he was presently installing a fence himself. Mr. Sullivan suggested that Mr. Dunlop might want to help him put up the fence as a good neighbor, and Mr. Dunlop agreed he would ask his worker to help him. Mr. Amundson was not asking for any remuneration towards the fence he was installing, but did ask if there were any further expansion of the parking lot, that Mr. Dunlop be required to install a fence on the property line as a buffer. He

mentioned there was also an issue with trash blowing from the dumpster along the fence, and Mr. Dunlop stated he would do some policing on that issue and keep it cleaned up.

Mr. Pendell asked if Mr. Dunlop wanted to change his hours of business in the future, would he need to come back before the Board for the change? Mr. Morales stated that he would, and that was why the Board tried to make sure that applicants asked for what they thought would be the maximum they would need in the future so they would not need to come back before the Board for every small change.

**Amie Clarkson, 85 Main Street.** Mrs. Clarkson stated that the natural buffer of the trees was for a buffer between her house and Mr. Dunlop's house and barn next to the restaurant. She was glad that the natural trees had been left for a buffer, but was concerned with what the plans were for the house and the barn. Mr. Dunlop stated that there were no plans to change anything with the house and the barn; he only wanted to open the restaurant. She also stated that there was a problem with the trash blowing from the dumpsters. Again, Mr. Dunlop stated they would do a better job policing that so it would not be a problem.

Mrs. Clarkson stated that the property was zoned commercial. Mr. Morales explained that it was a commercial business in a residential zone by the nature of grandfathering. Because of the zoning, they had been bound to keep to the original footprint of the old structure when they erected the new building.

Mr. Sullivan closed the floor to abutters.

Mr. Sullivan asked if the Board was satisfied with the application. They were, and Mr. Sullivan entertained a motion to invoke jurisdiction.

**MOTION:** Mr. Warren **MOVED** the Planning Board invoke jurisdiction for the change in tenancy for Julian Dunlop, 45 Stumpfield Road, Kensington, regarding a change in tenancy for Carmen's Diner, 89 Main Street, EK (MBL#14-02-05) (EKPB #08-OA). Mr. Morales seconded, and the motion passed unanimously.

Ms. Marshall indicated to the Board there was a problem with the ordinance in that Page 14 of the Site Plan Review procedures, A.1. does not mirror the statute. The Town's site plan review is more restrictive than the statute allows. She cited two cases to support this problem. 109 NH 287 states *that "towns have only as such power as granted to them by the state"*. 104 NH 249 states *"the power of a Town to adopt a zoning regulation is limited to that delegated to it by the legislature."*

She also stated that if the Board looked at the statute, the Town Site Plan Review provision is more restrictive. The actual RSA does not allow site plan review for a change in tenants. The ordinance has to mirror the statute. She pointed out that the ordinance was amended in 12/97 and the statute had changed since then.

Mr. Donald stated that he had heard that Mr. Dunlop wanted to open his restaurant in early June, and given the items that needed to be complied with as per the Fire Chief's memo, that would mean the restaurant would open before the approval was given at the next meeting. Mr. Warren asked if a conditional approval could be given to allow Mr. Dunlop to open on his proposed schedule.

There was Board discussion of Chief Richard's letter addressing the items that needed to be completed before he would sign off for Mr. Dunlop to open so they could be included in a conditional approval.

The following conditions apply to the tenancy of Carmen's Restaurant by Mr. Julian Dunlop:

Conditions:

1. Hours of operation are to be 7:00am to 2:00pm Monday through Wednesday; 7:00am to 8:00pm Thursday, Friday and Saturday, and from 7:00am to 3:00pm on Sunday, with an hour before and after opening and closing hours for preparation and cleanup.

2. The fire extinguisher located at the cash register area needs to be hung up on its supplied mounting bracket, and the extinguisher in the kitchen area needs signage mounted to identify its location.
3. The exterior exhaust cone and fan for the commercial fire protection hood system needs to be cleaned of built-up grease before it can be used.
4. The chairs and tables in the main seating area need to be placed and inspected by the Fire Department to ensure they do not cause a reduction of or hindrance to the means of egress.
5. The landlord shall make sure a key for the Fire Alarm system is kept on the premises and made available to the Fire Department.
6. The landlord has agreed to install a "Knox Box" emergency entry key system for Fire Department use.
7. Shall pass inspection by the Fire Department, Health Officer, and Code Enforcement Officer.
8. Any future expansion of the parking lot shall require landlord to install a fence as a buffer between 89 Main Street and 5 North Road.
9. The East Kingston Fire Department shall conduct an annual fire inspection of the premises.
10. All outstanding or future fees and charges due the Town in connection with the lot line adjustment, including but not limited to the reviews of Town Counsel, Town Engineer, RPC Senior Planner, Building Inspector, and Fire Department, and administrative costs incurred by the Town be fully discharged.

Mr. Sullivan entertained a motion for conditional approval.

**MOTION:** Mr. Morales **MOVED** the Planning Board grant conditional approval for the tenancy of Carmen's Restaurant and Mr. Dunlop with the conditions of approval noted. Mr. Warren seconded, and the motion passed unanimously.

Mr. Sullivan closed this public hearing.

Mr. Dunlop and Ms. Marshall thanked the Board for their time.

Mr. Sullivan recused himself and appointed Vice Chairman Warren to conduct the next public hearing, as it would be a conflict of interest for Mr. Sullivan.

PUBLIC HEARING FOR A LOT LINE ADJUSTMENT BETWEEN CYNTHIA SULLIVAN, 42 CLEMENT LANE, EK (MBL#11-03-08) AND ROBIN HUDSON, 30 CLEMENT LANE, EK (MBL#11-03-09) (EKPB#08-04).

Mr. Warren opened the public hearing.

Mr. David Sullivan was present; Ms. Robin Hudson was not in attendance. Mr. Dennis Quintal, Civil Construction, presented for the applicants.

Mr. Quintal explained that the two lots in question were located at the end of Clement Lane and that most of Ms. Hudson's property was wetland and heavily wooded. She did not need all the property she currently has, and Mr. & Mrs. Sullivan would like to add to the property they already own, so they have enough to put into current use to help preserve that area. The lot line adjustment would leave Ms. Hudson with 3.2 acres and the Sullivan's would have a total of 10.7 acres.

Mr. Morales asked why there was a Subdivision Application from the state included in the packet, as this is not a subdivision but a lot line adjustment. Mr. Quintal explained that the Hudson lot is less than 5 acres (3.7), and any lot that is created that is less than 5 acres has to have State approval. A subdivision application was submitted to the State, and a copy of that application is with the file.

Mr. Steltzer reviewed his findings upon examining the application, and found the only deficit with the plans to be the lack of a North arrow and the setting of bounds at the corners. Mr. Steltzer's recommendation is that the Board accept jurisdiction with the understanding the applicant will make inclusion of a north arrow and setting of the bounds. Mr. Quintal stated that these items would be completed on the final plan.

Mr. Steltzer's plan review noted that Planning Board would need to address the fact that the width of the lot did not meet the minimum lot width of 125' as stated in Subdivision Regulation VII.A. Parcel A. frontage was 95-100 feet.

Mr. Quintal submitted a request for a waiver from Subdivision Regulation VII.A. 125' minimum lot width, stating the area is not usable as it is considered wetland. The proposed lot line adjustment would create a width of +/- 97'.

Mr. Steltzer explained that first step in the process is to accept jurisdiction of the application, which ensures the Board deems the application as complete. Once jurisdiction has been accepted, there will be discussion on the plan as far as how it to adheres to other aspects pf the regulations and zoning ordinances.

Mr. Warren asked for a motion to invoke jurisdiction.

**MOTION:** Mr. Morales **MOVED** to invoke jurisdiction on the Lot Line Adjustment between Cynthia Sullivan, 42 Clement Lane, East Kingston (MBL#11-03-08) and Robin Hudson, 30 Clement Lane, East Kingston (MBL#11-03-09) (EKP#08-04) as presented by Mr. Quintal. Mr. Pendell seconded the motion.

Mr. Morales stated Mr. Quintal has made a good point in that that the area in question was not buildable as it was wetland. Determination to grant waivers by the Planning Board is made on a case-by-case basis, and in this case, Mr. Morales would vote to grant the waiver.

Mr. Steltzer stated that as a result of the recent court case Oshur vs Stratford, the Supreme Court said that Planning Boards needed to look at undue hardships. In order for a Planning Board to issue a waiver, it needs to consider unnecessary hardship as well as making sure the spirit and the intent of the regulation won't be obstructed. Mr. Donald opined it was an irregularly shaped lot as opposed to a lot width less than 125'. Mr. Morales reviewed that Subdivision Regulation VII.A. requires a minimum lot width of 125'.

Mr. Quintal inquired if the reason for the 125' requirement was to allow for the necessary setbacks. Mr. Morales opined that to be the intent of the regulation, to have a buildable space at the front of the property on which to build a house. Mr. Quintal countered that houses are not always built at the front edge of the property. Mr. Morales agreed.

In Mr. Warren's in his opinion, by granting the waiver from the 125' frontage, they would not be violating the spirit or intent of the regulation.

Mr. Steltzer referred to RSA 674.44.III.(e): *"Include provision for waiver of any portion of the regulations in such cases where, in the opinion of the Planning Board, strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations."*

Mr. Morales stated that the next procedure for the Board, after opening the floor to abutters, is to vote on granting the waiver, and then vote approve or deny the lot line adjustment.

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

Mr. Warren asked for a motion on the waiver.

**MOTION:** Mr. Morales **MOVED** to grant a waiver from Subdivision Regulation 7.A. requiring a minimum lot width of 125' for a Lot Line Adjustment between Cynthia Sullivan, (MBL#11-03-08) and Robin Hudson (MBL#11-03-09). This waiver will allow the 125' requirement to be reduced to 97' as the area in question is designated is a wetland and not buildable as such. Dr. Marston seconded. The motion passed.

Mr. Warren asked for a motion to approve/disapprove the lot line adjustment.

**MOTION:** Mr. Morales **MOVED** to **CONDITIONALLY APPROVE** the lot line adjustment between Cynthia Sullivan, 42 Clement Lane, East Kingston (MBL#11-03-08) and Robin Hudson, 30 Clement Lane, East Kingston (MBL#11-03-09) (EKPB #08-04) as presented based on the conditions that the North Arrow will be included on the final plan, the corner bounds will be set and included on the mylar, and that all fees in conjunction with this lot line adjustment will be paid to the Town. Dr. Marston seconded. The motion passed.

Mr. Warren closed this public hearing.

Mr. Quintal thanked the Board for their time.

Mr. Warren relinquished control of the meeting back to Chairman Sullivan.

PUBLIC HEARING REGARDING A PROPOSED LOT LINE ADJUSTMENT BETWEEN NORMAN AND CAROL FREEMAN (HONEY BEE TRUST), 52 MAIN STREET (MBL 09-08-01), EAST KINGSTON AND GRANITE STATE GAS (#18-01 GSGC) (EKPB#08-03)

Mr. Sullivan opened the public hearing for a proposed lot line adjustment between Norman and Carol Freeman (Honey Bee Trust), 52 Main Street, East Kingston (MBL 09-08-01) and Granite State Gas (# 18-01GSGC). Mr. Erik Newman, counsel for Granite State Gas Transmission, Inc. and Mr. and Mrs. Norman Freeman were present. Mr. Newman presented the lot line adjustment application to the Board.

Mr. Newman clarified that the purpose of the lot line adjustment was to bring certain above ground utility infrastructure facilities fully within a single lot owned in fee by Granite Sate Gas. This lot line adjustment would add approximately 15' to the presently owned property of Granite State Gas. Mr. Newman explained that both lots are non-conforming, and smaller than the required minimum area under Article IX of the East Kingston Zoning Ordinance. The existing gas lot is not a "building lot" due to lack of walls or roof over the gas facilities, and cannot be further developed due to the presence of existing above- and below-ground gas facilities.

The proposed lot line adjustment would reduce the size of the Freeman's non-conforming lot by an additional 525 square feet, and increase the size of the gas lot to .526 acres. In 2006, they installed additional above ground infrastructure facilities on the existing lot. Both the Freeman's and Granite State Gas agree it would be in everyone's best interest to have that fully encompassed within a single lot and encompassed by a fence. Ms. Marshall explained that the above ground facility not enclosed within the existing fence is a huge liability for the Freemans.

Ms. Marshall explained that they had brought litigation before the Superior Court saying it further encroached on the Freeman's' land and they had an unauthorized taking. There is an underground easement and Granite State Gas installed an above ground structure on it. There was a confidential settlement and part of that settlement is a lot line adjustment so the gas company can maintain that piece of land.

Mr. Steltzer explained that the Board's intent was to provide a denial for the applicants, enabling them to have a formal letter of denial by which to be heard by the ZBA. Mr. Steltzer had reviewed the application and recommends that the Board accept jurisdiction on the application. He also had reviewed the plan and as both lots are non-conforming and require relief from the Zoning Board of Adjustment, he recommends that the Planning Board deny the application based on Article XX.E. – *Nonconforming lots can neither be enlarged or expanded in either use or structure.*

There was Board discussion about whether it was an expansion of use or structure. It was decided it was an expansion of use.

Mr. Newman asked if they would be asking for one or two variances. Mr. Steltzer stated that to his understanding, it was an expansion of the use and would require only one variance from the ZBA. Ms. Marshall opined

there would need to be two variances, one for the expansion of the non-conforming gas lot and one for the reduction of the already non-conforming Freeman's lot, which made it more non-conforming. Ms. Marshall opined that each lot would need to stand on it's own.

Mr. Steltzer stated that the Board should have a discussion on whether the lot line adjustment is considered natural expansion of a non-conforming use. He did not find anything in the East Kingston ordinance speaking to natural expansion, but it is a common language incorporated into other zoning ordinances. Mr. Steltzer's advisement is that it *is not* a natural expansion and to clarify and make the process clean, it should be denied and go before the ZBA for a hearing.

Mr. Newman asked if obtaining the variance from the ZBA would be a forgone conclusion. The Board answered that it could not guarantee anything as the applicant would need to pass the five criteria.

Mr. Newman formally requested that the expansion with respect to the use on Granite Gas lot to be considered a natural expansion and not in need of a variance. He understands the Board's rational under the ordinance why increasing the non-conforming dimensional characteristic of the Freeman's lot would require a variance. Mr. Newman requested that the grounds for denial specify that the relief needed from the ZBA is a variance in regard to the Freeman's lot and not the Granite State lot.

Mr. Morales stated they could not make that determination; the Board did not have the authority to grant the variances to the ordinance. They would need to say there are two non-conforming lots that no matter what is done, they will still be non-conforming. It is then up to Granite State Gas to pass the five criteria for the ZBA to grant the variance. There was discussion on whether or not the denial needed to be for one or two variances.

Mr. Morales read Zoning Ordinance XX.E.:

*"This ordinance shall in no way affect any dwellings, buildings, or recorded lots that are legally existing or substantially constructed at the time of its passage. A non-conforming use or structure shall not be:  
E. Enlarged or expanded either in use or in structure".*

Mr. Sullivan entertained a motion to invoke jurisdiction.

**MOTION:** Mr. Morales **MOVED** to invoke jurisdiction on the lot line adjustment between Norman and Carol Freeman (Honey Bee Trust), 52 Main Street, East Kingston (MBL 09-08-01) and Granite State Gas (#18-01GSGC) (EKPB#08-03). Mr. Pendell seconded the motion.

The floor was opened to abutters. There being none, the floor was closed to abutters.

Mr. Steltzer verified that the Board was only asking for one variance, in comparison to the two variances asked for by the Freeman's. Mr. Steltzer's opinion is that only one variance is needed since there is such a strong connection between both the lots and in the issuing of that variance. To expand one lot, the ZBA is going to need to consider the options of that additional lot.

Mr. Warren asked if it were in the best interest of any future owner of the property to have only one variance. Was the Board going to make a decision that might adversely affect a property owner in the future? Mr. Donald explained that as long as there is enough space to occupy and maintain a septic system and well setbacks, the property owner would be protected.

Mr. Sullivan entertained a motion for approval/denial of the application.

**MOTION:** Mr. Morales **MOVED** to **DENY** the lot line adjustment between Norman and Carol Freeman, 52 Main Street, (Honey Bee Trust), East Kingston (MBL 09-08-01) and Granite State Gas (18-01GSGC) (EKPB #08-01) due to non-conformance by changing a non-conforming lot and making it more non-conforming which is not allowed in East Kingston Zoning Article XX.E, which states: "...a non-conforming use or



*structure shall not be enlarged or expanded either in use or structure.” Mr. Warren seconded, and the motion passed.*

Mr. Steltzer will generate the denial letter and send to the applicants and the Town.

Mr. Sullivan closed the public hearing.

Mr. Morales informed the applicants that the next step was to go to the ZBA for a variance to Zoning Article XX.E.

Mr. Newman and the Freemans thanked the Board for their time.

#### **CONTINUED BOARD BUSINESS**

***Circuit Rider Contract.*** The RPC Circuit Rider contract was up for renewal and was presented to the Board by Mrs. White for approval and the Chairman was to sign the contact. Mr. Morales noted that the Planning Board was not given the latitude to sign contracts, but they could recommend to the Selectmen that the contract be renewed and that the Selectmen could sign the contract with that recommendation. The contract period would be for a period of 15 months from April 1, 2008 to June 03, 2009, enabling this contract to align with the RPC fiscal year.

Mr. Steltzer explained that the Board of Selectmen was not his boss, the Planning Board was. Mr. Morales noted that the Selectmen were the Planning Board’s boss and as such, they should be the one signing the contract; the Planning Board serves at the Selectmen’s pleasure. It might be different if the Planning Board was elected, but they were appointed.

The question was posed to Mr. Steltzer if the fees had gone up this year. Mr. Steltzer replied that the RPC fees for the Town had gone up and had been set to reflect inflation, but the Circuit Rider fees are separate and to his knowledge, they had not gone up. As the funds for the Circuit Rider contract do come out of the Planning Board budget, the two options would be either to continue to have a Planner be present at the meeting to help with regulations and ordinance development, or to handle it themselves because they are unhappy with the services Mr. Steltzer has been providing. Mr. Steltzer noted it was a new Board with several people without experience, so it would be especially crucial to have a Circuit Rider Planner present to help.

Mr. Pendell noted that the contract stated that the Circuit Rider would be available for 12 night meetings and 13 hours of general assistance per month, and suggested the contract be re-worded to state 12 night meetings per year and 13 hours of work per month. The consensus of the Board was it would be advisable to clarify that item.

It was decided to vote on approving renewing the contract and recommending the renewal to the Board of Selectmen so they could sign the contract.

Mr. Sullivan asked for a motion to approve the contract.

**MOTION:** Mr. Warren **MOVED** to APPROVE renewing the contact between the Rockingham Planning Commission and the East Kingston Planning Board for Circuit Rider services for the period of April 1, 2008 until June 30, 2009 and sending the contract to the Board of Selectmen for signature. Mr. Morales seconded, and the motion passed. Mr. Pendell abstained as he sits on the Board of Selectmen.

Mrs. White will write a letter recommending renewal of the Circuit Rider contract for the Planning Board to the Selectmen. She will also contact the RPC and ask them to clarify the reference to the number of meetings and hours of assistance.

**Who to ask if there are questions?** Mr. Pendell asked who was the entity for him to go to if he had questions since he was a new ex-officio; was Mr. Steltzer his resource? He wanted to make sure his decisions would be in the best interest of all parties concerned and was unsure how to know if he was making the correct choice.

Mr. Steltzer stated that he was available for clarification on questions Board members may have. He also stated there were two web sites where they could go for help and that he would e-mail the list to everyone. Mr. Steltzer explained that the RPC had a handbook for new Planning Board members that he would get to those who were interested. He will send information for Internet services as well. Mr. Warren noted that work sessions could also be a forum for questions.

Mr. Morales stated that the Planning Board's main purpose was to enforce the ordinances. If everything is according to the ordinances and regulations, questions should be answered. Mr. Donald explained that some of the concerns Mr. Pendell has are questions the Zoning Board would deal with, such as the 5 criteria that need to be met. One of the five criteria is making sure the decision would not do substantial harm to anyone else. As long as the Board was complying with the ordinances and regulations, they are doing their job.

**Certificates.** Mr. Sullivan suggested having certificates made up for Mr. Day, Mrs. Belcher and Mr. Lloyd to thank them for all their work on the Planning Board. Board members agreed that would be a good thing to do, and Mr. Sullivan will have the Selectmen's Assistant arrange for them.

**MPO/RPC Representatives.** Mr. Sullivan reminded the Board that the Town was short two RPC representatives and an MPO representative. He asked if Board members knew of anyone who was interested, they should contact the Town Office or Mrs. White.

**Next Month's Agenda.** Mrs. White reviewed that the items for next month's agenda so far:

**Letter from the ZBA.** The Planning Board will need to address the ZBA's letter asking that the definition of "living space" be added to Article II – Definitions and Article VIII.F. Accessory Dwelling Units. The Board will need to agree on new language for the ordinance.

Mr. Sullivan asked if there was any other Board discussion. There was none and a motion to adjourn was entertained.

**ADJOURNMENT:**

**MOTION:** Dr. Marston **MOVED** the Planning Board adjourn. Mr. Morales seconded, and the motion carried unanimously at 9:00 pm.

Respectfully submitted,

Barbara A. White  
Recording Secretary

DF Sullivan  
Chairman

Minutes approved June 19, 2008

There are changes to the April 17 minutes. Please refer to the body of the May 15 minutes for those changes.
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