

East Kingston Planning Board Minutes
May 16, 1996

FILE

Agenda

- 7:30 Gerry Vincent - Preliminary Discussion / Home Occupation
7:35 John Eaton - Preliminary Discussion / Duplex
7:45 Christa Thistle - Discussion / Wetlands Building Permit
8:00 Public Hearing - Commercial District Amendment Article VII.A.3 (North Rd)

Planning Board Members Attending: Chairman Richard Smith, Catherine George, Ed Johnson, Dr. Robert Marston, J. Roby Day-Ex Officio, Beverly Fillio-Alternate, and Madeline Marshall-Alternate.

Others Attending: Lawrence Smith-Conservation Commission Chairman, Glenn Clark-Building Inspector, Sarah Campbell-RPC Circuit Rider, Gerry Vincent, John Eaton, James Thistle, and Christa Thistle.

Public Attending: See attached Attendance Sheet.

Chairman Richard Smith called to order this May 16, 1996 Planning Board meeting at 7:30 P.M.

Gerry Vincent - Home Occupation: Mr. Gerry Vincent informed the Planning Board of his intention to establish a software consultant business from his home at 10 Forest Drive via the Internet. He stated that he (Vincent) may advertise this enterprise in the newspapers, but the majority of advertisement and customer/client contact would be through fax, e-mail and the Internet.

Mr. Vincent explained that the employees for this venture consist of his wife and himself. He further stated that there wouldn't be any expected increase in traffic to his property as this business would require customer/client assistant at the customer/client premises.

At the inquiry of the Planning Board, Mr. Vincent explicated that his business will develop sites and home pages on the Internet for businesses. He continued that the home occupied area for this proposed business is a spare bedroom. Mr. Vincent then stated that he was familiar with the Home Occupation Ordinance and was requesting clarification as to whether or not he needed to go through the Home Occupation process.

Chairman Smith referred to Article X - Home Occupations, Section 1:

Definition: A Home Occupation is a professional or service occupation or business carried out from the home which is clearly accessory and subordinate to the residential use of the property. A Home Occupation is the provision of a service and/or the production or selling of a product on the premises.

Mr. Roby Day stated that this proposed business does fall within the guidelines of the Home Occupation definition and further stated that his recommendation to the Planning Board is that Mr. Vincent apply for the Home Occupation permit.

The Board was in agreement and so directed Mr. Vincent to follow the Home Occupation permit procedures.

John Eaton-Duplex: Mr. John Eaton presented the board with a map of his property at 52 East Road and explained his proposal to build an addition to his home creating a duplex. He also stated that he meets all the requirements of this Zoning Ordinance except for the required 300 foot frontage.

Mr. Eaton further explained that if he were allowed to include the driveway and driveway frontage that is shared by himself and the residents of 48 East Road, the new total frontage would meet the 300 ft. requirement.

At the inquiry of the Planning Board, Mr. Eaton stated that he does not own the driveway but an easement is recorded in the deed.

The Planning Board recommended that Mr. Eaton apply for a variance from Article VI.G.3 (lack of frontage requirement for a two family dwelling) by way of the Zoning Board of Adjustments.

Christa Thistle - Wetlands Building Permit: Mrs. Christa Thistle elucidated her desire to build a two stall horse barn on her property located at 48 Sanborn Road. She stated that the back of her property shows evidence of prior excavation and when her intent to do additional excavation was addressed, she was advised by contractors that she needed approval by the town to re-grade that area [as the area is considered wetlands/poorly drained soil].

Mrs. Thistle further explained that she was directed to seek the procedure requirements for this re-grading through the Conservation Commission Chairman, Lawrence Smith.

Mr. Lawrence Smith explicated that because the Thistle lot had been so disturbed, it is difficult to tell where the wetlands boundary line is located. He then requested that Mrs. Thistle submit to the Planning Board, a plan [to scale] of the property and it's buildings including the wetlands boundary. He continued to say that once this plan has been submitted and reviewed, then the Planning Board can move forward and make an informed decision to approve or disapprove of the request for a wetlands building permit.

The Board supported Mr. Smith's request.

Commercial District Amendment: Chairman Smith opened the public hearing for the proposed repeal Article VII.A.3 at 8:00 P.M. and read into the minutes the TEXT AND EXPLANATION OF PROPOSED ZONING ORDINANCE AMENDMENT. (See attached.)

Mr. Raymond Donald of 174 North Road stated for clarification that the proposed amendment (see attached) only *repeals* the amendment that was voted favorably on ballot in March 1996. The Planning Board will vote this evening whether or not to place this repeal amendment question on the ballot in September.

Mr. James Nupp of 35 North Road voiced his concern about the phrasing of the amendment and that it is his belief that the amendment was favorably voted back in March because the text was misleading.

Mrs. Sarah Campbell explained that the statutes states that before the zoning ordinance can be amended, the Planning Board must first hold a public hearing on that amendment. She continued to say that the Planning Board is holding this public hearing to satisfy the statutory requirements of getting this question on the ballot at the September Town Meeting.

At this point, the status of the amended commercial district [750 feet either side of North Road (Route 108) from the centerline of Sanborn Road to the north boundary of Union Cemetery], was clarified that if the Planning Board votes to place this repeal amendment on the September ballot, the current commercial amendment is still in effect, however, the Planning Board and Building Inspector will cease to accept, allow, or issue any commercial construction or commercial enterprise in this district until the amendment is re-voted on by ballot at the September Town Meeting.

At the inquiry of Mrs. Lucienne Jacques, Mr. Glenn Clark stated that since the March 1996 Town Meeting, no building permits have been issued in this amended commercial district.

Mr. Peter Riley of 47 North Road questioned the possibility of a commercial enterprise application being "grandfathered" should the repeal of this amendment be successful in September.

Chairman Smith reiterated that no building permits *have* been issued and no building permits *will* be issued.

Mr. Wayne Ewald of 14 Tilton Lane stated that it was his understanding that when the Planning Board met originally to discuss placing this amendment on the ballot, they (PB) stated that one of the main factors in adding this commercial district on North Road was because of the demand of North Road residents requesting to establish businesses in their homes.

Mr. Ewald continued to say that this commercial district was also created to increase town revenues and then inquired if any new revenues have been recorded.

Mrs. Campbell responded that the discussion Mr. Ewald is referring to was indeed about the demand for home occupation permits, but not to a specific area. This increase for home occupation permits and the fact that the Planning Board was seeing many home occupations that were not fitting in with the criteria of the ordinance, was one of the reasons why the Planning Board sought additional space for the commercial district.

Mr. Dan Bodwell of 79 North Road conveyed that he was not present at the early discussion of this commercial zone amendment, however, it was not the revenues the Planning Board was seeking as a sole motive in this district change. The Planning Board was creating an opportunity for property owners in this commercial district to use their property in a commercial way other than just for residential purposes.

Mr. Bodwell went on to explain that for every residential property that is created, an increase is added to the tax rate and it is conceivable to believe that zoning commercial is an opportunity not to add to this tax rate thus, indirectly helping to keep the tax base down.

Mr. Ewald stated that very few people would benefit from this zoning change and that he (Ewald) views this as a special interest project.

Mr. Day responded that the Planning Board has been dealing with resident's concerns about the taxes being too high. This commercial zoning change could help alleviate some of that concern. He continued to say that the Planning Board did not address any particular special interest groups and that after reviewing the town as a whole, Route 108 deemed the most logical place for this commercial district addition.

Mrs. Jacques expressed that she has not yet been satisfied with a legitimate reason why North Road was chosen for this commercial district addition and that other commercial land is already available on Routes 108 and 107.

Mrs. Carol Nupp of 35 North Road voiced her concern over the wording of the amendment declaring it too confusing for voters to understand it's repercussions.

Mrs. George explained that the ballot format will present the existing commercial districts as well as the proposed commercial district. She continued to explain that the proposed repeal amendment must be written as it was originally presented on the ballot back in March 1996.

Mr. Day further expounded that the clarification of the amendment and it's repercussions must be addressed before voters decide the ballot.

Mrs. George stated that this repeal amendment question will be on ballot at the September State Primary/Town Meeting. She also stated that she supports the commercial zone district amendment as it stands.

Chairman Smith stated that because the Planning Board has already received the vote to go forward with placing this repeal amendment question on the ballot, doesn't mean the Planning Board supports this repeal. He further stated that he (Smith) is not in favor of this repeal and that because this amendment was passed favorably in the first place, shows the town's support in this commercial district as well.

Mr. Nupp construed that it was his genuine belief that this amendment is not a special interest issue, but only the lack of clarity and understanding of this amendment [because of it's wording] was why it was favorably voted on in March. He continued to say that the Planning Board has an obligation to inform voters of what they are voting on.

Mrs. Joan Kasinskas of 31 North Road acceded with Mr. Nupp and stated that research and an analysis of possible revenues raised should have been conducted prior to this amendment change. The town has many resourceful and qualified residents who could volunteer and assist the Planning Board for future commercial district locations.

Mrs. George responded that the Planning Board would welcome any informed citizens committee to put together an objective and fruitful location for a commercial district in town.

Chairman Smith explicated that the Planning Board's only intention was to add to the commercial district already in town and that all properties in the newly zoned commercial district would remain residential unless those property owners decided to change it to commercial. The Planning Board was not turning all properties located within the commercial district to commercial, that could only be done by the property owners themselves.

Mr. Day stated that the Planning Board is responsible to the citizens to provide a means by which the Planning Board can assist the town to grow in the direction the townspeople desire. He continued to explain that one of the Planning Board's tools in this zoning change was 15 years of citizens surveys which reflect the town's desire for lower taxes as well as the town's understanding that the commercial and light industry areas already existing in town, did not lend themselves to adequate growth as expected.

Chairman Smith stated that the commercial district at Burnt Swamp Road and Havenhill Road has not been developed commercially as those property owners have opted not to. Again, only the property owners can change the residential properties in commercial districts to commercial.

Mr. Nupp responded that this commercial district on North Road has the potential to transform into a Route 125 (in Plaistow) and a Route 1 (in Hampton/Hampton Falls). Those commercial strips in Plaistow and Hampton/Hampton Falls were not predicted back when those areas were zoned commercial.

He continued that UNH has caused problems in the past for the town and if the UNH property is zoned commercial, the prospects of what UNH will do to the property is scary.

Mr. Nupp further stated that it is vital that every voter in September understands completely the repercussions of this repeal ballot question.

MOTION: Mrs. George motioned to place the Repeal of Amended Article VII.A.3 Commercial District, A. Location, as follows:

Repeal VII.A.3 750 feet either side of North Road (Route 108) from the centerline of Sanborn Road to the north boundary of Union Cemetery

on the ballot to be voted on by Town on September 10, 1996. Roby Day second. The vote passed unanimously. (5-0)

Mrs. Gail Donald of 174 North Road requested that the Planning Board minutes reflect her desire that the Planning Board personally inform residents affected by district changes and that such a policy to notify be implemented in the future. She continued to say that not all East Kingston residents receive or read the newspaper.

Mrs. Kasinskas accorded with Mrs. Donald's statement and added that whenever an article of such impact arises, the Planning Board has an obligation to personally notify the residents who will be affected.

Mrs. Nupp commended the Planning Board for its efforts in the public notification of this meeting and requested that such efforts continue.

Chairman Smith stated that each and every household in East Kingston received a Town Report which contained the proposed commercial zone amendment as it was placed on ballot in March 1996.

Chairman Smith then concluded this public hearing for the proposed repeal Article VII.A.3 at 8:57 P.M.

Master Plan Meeting: The next Master Plan meeting will be held Tuesday, June 4, 1996 at 7:00 P.M. at the Town Offices, 24 Depot Road.

April 18, 1996 Planning Board Minutes:

MOTION: Roby Day motioned to accept the April 18, 1996 Planning Board Minutes as prepared. Dr. Marston second. The motion passed unanimously. (5-0)

Chairman Smith reviewed the following correspondence:

1. NH Department of Transportation Interactive Teleconference

Gas Pipeline update: It was noted that two companies have applied for permits from FERC and the Planning Commission may only allow one, as two would require two separate 75 ft. right of ways. The Town of East Kingston filed Intervenor Status with FERC.

June Planning Board Meeting: By reason of the Planning Board's secretary conflict of schedules, the regularly scheduled June 20th Planning Board meeting will be held on June 27, 1996. It was noted that this change be posted in two East Kingston locations and published in the newspaper.

Southern NH Resource Conservation & Development Area: Mr. Lawrence Smith, Conservation Commission Chairman informed the board that East Kingston is a member of the SNHRC & D Area, which was officially incorporated in August 1993. RC&D Areas are sponsored by the US Department of Agriculture, and administered through the Natural Resources Conservation Service. Their function is to develop, improve and conserve natural resources and to provide employment and other economic opportunities to the people of the approved areas. Projects included in this organization: timber bridges, rural fire protection, and dry hydrants.

Mr. Smith further stated that the RC&D assist in enhancing social, economic and environmental conditions in rural areas by finding technical and financial assistance from a variety of sources. RC&D meetings are held four times a year, (usually during the day), at various locations in Southern NH.

He continued to explain that once SNRC& D receives official recognition from the Secretary of Agriculture, then E.K. and other members can go forward and apply for grants for their projects.

Mr. Smith stated that the selectmen are looking for any interested individual who would like to represent East Kingston in this organization. The next SNHRC&D Area meeting will be held on July 18th. He continued to say that he (Smith) will address Mr. James Nupp for possible interest in this position.

Light Industrial & Commercial District: The board entertained light discussion on the possibility of seeking an agent/agency to solicit commercial or light industrial enterprise into the light industrial/commercial district on Haverhill Road. It was noted that the Town of Brentwood recently received a \$15,000.00 grant from the Rockingham County Economic Development Commission to assist a business to locate in that town.

Boca Code Adoption: Mr. Glenn Clark, Building Inspector stated that every three years the BOCA National Building Code is amended and it is required that those amendments be adopted by the Planning Board. He continued to say that the 1996 amendments have already been updated and that he (Clark) is currently following those codes.

MOTION: Mr. Day motioned to announce for a public hearing to consider adopting the 1996 revision of the BOCA Code at the June 27th Planning Board meeting. Mrs. George second. The motion passed unanimously. (5-0)

Method of Adopting for Zoning Ordinance on Ballot RSA 675:3: It was noted that there is a provision in the statute that states that if an amendment is submitted by the Selectmen, the ballot shall so indicate. A notation on the ballot stating the Planning Board's approval or disapproval shall immediately follow the question. The possibility of supplying a extra text and explanation of the ballot question (repeal Article VII.A.3) was raised. The board acceded to continue this discussion at the next Planning Board meeting.

Planning Board Alternate Member Rotation: It was noted whenever a regular member of the Planning Board is absent or disqualifies himself, the chairman shall designate an alternate, if one is present, to act in the absent of the absent member's place. The three alternates of this Planning Board will rotate such a procedure.

Community Services Facility Chapter: It was noted that this portion of the Master Plan requires the input of town department heads. By reason of past department head participation being unsuccessful, the Planning Board agreed to submit copies of the 1988 Master Plan Community Services Facility Chapter to department heads requesting their input for updates and amendments to this chapter. A meeting to discuss these amendments/updates would be scheduled at a later date.

Transportation Chapter: Changes noted on the Master Plan Transportation Chapter (see attached) are as follows:

1. Page 6 - new map
2. Page 7 - new language
3. Page 8 - scenic roads identification (Willow, Joslin and Stumpfield Roads)

4. Page 16 - #5 impact fees - recommendation change

Dewey Bowley Excavation Pit: It was noted that the Dewey Bowley excavation pit was on the list of Home Occupation renewals. It was the opinion of the Planning Board that Mr. Bowley did not need to file for the home occupation permit as his excavation pit did not meet the definition of the home occupation ordinance.

It was also the Board's opinion that this issue be investigated to see if the circumstances exist for Mr. Bowley to submit a reclamation plan. Also noted was that Mr. Bowley was responsible to meet the operational standards under the local regulations for excavations.

MOTION: Dr. Marston motioned to adjourn this May 16, 1996 Planning Board meeting. Mr. Ed Johnson second. The motion passed unanimously and this meeting concluded at 10:17 P.M.

Respectfully submitted.

Catherine Belcher
Secretary