



PLANNING BOARD  
TOWN OF EAST KINGSTON  
New Hampshire

2015-2016  
Joe Cacciatore, *Chairman*  
Dr. Robert Marston, *Vice Chairman*

**MINUTES**  
Regular Meeting 21 May 2015  
7:00 pm

**AGENDA:**

- ◆ **Call to Order**
- ◆ **Discussion** with Kevin Jones, 5 Depot Road (MBL 09-03-10) regarding installation of additional storage units.
- ◆ **Review** of communication from Danna Truslow re: PREP grant availability.
- ◆ **Discussion** of the ZBA decision on the Woldridge Lane septic design appeal
- ◆ **Board Business**

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

**ROLL CALL:**

**Members Present:** Chairman Mr. J. Cacciatore, Vice Chairman Dr. R. Marston, Mr. C. Delling, Mr. B. Caswell, and Ex-Officio Mr. R. Morales. Mr. J. Bath was excused.

**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; and Mr. Dennis Quintal, representative for Kevin Jones.

**Minutes**

Mr. Cacciatore asked for a motion to approve the April minutes.

**MOTION:** Mr. Delling **MOVED** to approve the April minutes as presented. Dr. Marston seconded. The motion passed unanimously.

**Discussion with Kevin Jones, 5 Depot Road (MBL 09-03-10) regarding installation of additional storage units.**

Mr. Cacciatore opened the discussion. Mr. Dennis Quintal announced he was present for Mr. Jones and would explain what Mr. Jones' intentions were for the property. He was here to inquire if a site plan review would be needed for this project.

Mr. Jones' existing storage units were all full and he would like to place more units on the property. Mr. Quintal distributed a sketch of where proposed additional units would be placed. Mr. Jones' intent was to remove the existing concrete foundation and place the units extending across that location.

He noted the additional units would not be placed near the wetlands. The intent is for 30 additional 10x10 units. The sketch indicates there would be a row of 15 units long, placed back to back (for a total of 30 units); the row would be approximately 20' wide and 150' long. The proposed area is quite flat with only a slight slope.

Mr. Quintal had allowed for traffic flow in between the proposed new units and the existing units. His sketch shows the units located 25' from the property line, and he indicated there was significant buffer with vegetation between the units and the residences adjacent to the storage facility.

The new units would be placed on top of the ground, much as the existing units were, on top of a concrete pad. Drainage would stay the same and flow through the grass swale and then the treatment swale before it reached the wetlands.

There was Board discussion regarding what was previously approved for this property; Ms. LaBranche noted that would not come into play here; the new owner can ask to expand. Ms. White reminded the Board there had been concern at the time of the original site plan in 2007 from abutting property owners regarding access to their backyards by patrons using the storage units.

Ms. LaBranche noted it was an expansion of a commercial use (the property is located in the Town Center District, but abuts residential land), and therefore would need an amended site plan review. Also, the Board has the ability to require adequate visual and noise screening on a case-by-case basis.

Mr. Quintal thanked the Board for their time; Cacciatore closed this discussion.

### **Board Business**

#### **Review of communication from Danna Truslow re: (Piscataqua Region Estuaries Partnership) PREP grant availability**

Mrs. White had received communication from Danna Truslow from Truslow Resource Consulting LLC offering grant assistance in adopting recommended PREP actions. As the grants are associated with water issues such as updating shoreland protection, wetland and aquifer protection ordinances, Mrs. White had indicated to Ms. Truslow she was certain our RPC Senior Planner Ms. Julie LaBranche had already taken care of those issues for our regulations and ordinances, but would present her offer to the Board and get back to her with an answer. Ms. Truslow indicated this grant would be a matching grant; Mrs. White indicated to Ms. Truslow the Board has no funds for grant matching at the present time. Mrs. White had asked about the possibility of grants for use toward Master Plan updates, but was informed Master Plans do not meet the qualifications for the grants.

Ms. LaBranche noted the PREP had a small grants program which they were able to bring back for one year. They are offering competitive grants in the coastal watershed with a list of qualifying projects, which has to be matched by 50%. She noted Danna Truslow is a hydro-geologist and the types of qualifying activities include: increasing shoreland standards beyond what the state mandates, increasing buffers and setbacks to wetlands and surface waters, working on climate change vulnerability assessments, and stormwater management regulations, etc. Ms. LaBranche noted she had updated the regulations and ordinances in those areas. The Board asked Mrs. White to thank Ms. Truslow for her offer but inform her that we did not need services at this time.

#### **Rockingham Planning Commission Commissioner appointment**

Mrs. White reported the Board received a letter from the Rockingham Planning Commission asking if they would like to appoint a second Regional Planning Commissioner appointment. East Kingston has have one Commissioner at the present time (Ed Warren), but the Town is allowed to have two. The nominee does not need to be a Planning Board member but would need to be nominated by the Board and approved by the Selectmen.

Ms. LaBranche noted it is advantageous for the Town to have representation as the RPC is a Metropolitan Planning Organization who administers state highway funds and programming. Representation on the Technical Advisory Committee (TAC) allows a say in the which projects on the state DOT 10-year plan get

moved up, how they score, etc. As a member, you can advocate for projects in your community, find out about programs, and voice your opinion about certain regional efforts.

Last year the members reviewed the updates to the regional master plan. Also as a member you would be eligible for Targeted Block Grants (TBGs). Mr. Morales offered to send the letter to the website manager for posting for interest from the community and put it on the facebook page.

Ms. LaBranche created a flyer several years ago for membership to the Planning Board, and offered to create one for the Regional Commissioner position. Mr. Morales opined the letter was self-explanatory.

### **Exeter Area Chamber of Commerce Invitation**

Mrs. White announced that the Planning Board has been asked by the Exeter Area Chamber of Commerce to select a representative to attend the "*Local Economic Development Forum*" to be held at the Newmarket Mill Space. The forum is on Wednesday, June 3 and will run from 7:30 am to 10:00 am. It includes a continental breakfast, and the cost is \$25.

Agenda items include: the story of the Newmarket downtown revitalization; available "tools" for your Town to consider in the years ahead; tax incentive financing districts; local developer perspective; and open forum discussion on vision.

The Board had discussion about the invitation and agenda items and opined this type of development was not conducive for the way East Kingston is set up as there is no official "downtown" area. Ms. LaBranche will inquire if there will be discussion items which would apply to more rural towns and get back to the Board.

### **Bocovina Cuisines**

Oksana Karcha, 168 North Road would like to speak to the Board regarding changing from an invisible home occupation to a visible one as she would like to have a sign. She wants to have a farmstand and sell vegetable from her garden, and some of the food she prepares from her catering service. Mrs. White had attended a webinar on "Local Agriculture" and noted there was a similar situation that had come up in the discussions. She checked with the New Hampshire Municipal Association and what Ms. Karcha would like to do appears to be covered under 674:32- a. and -b.

Board discussion ensued and they asked Mrs. White to invite Ms. Karcha to the June meeting to explain what her intentions are. Mrs. White will contact her.

### **Camp Trickling Falls**

Mrs. White reminded the Board they had given the YMCA Camp on Haverhill Road permission to install a new sign last fall, providing it did not obscure sight distance coming out of the driveway. In passing the Camp, she noticed when they installed the new sign, they did not adhere to what the Board had given permission for. The Board had stated although the new sign would be slightly wider than the old sign, as long as they did not put it any closer to the road, it would be acceptable. The Camp had also stated that the new sign was slightly deeper, but given the height of the existing sign posts, that appeared it would not impede the sight distance.

When they installed the new sign, they removed the back post and moved it closer to the road to accommodate for the longer sign, and also cut down the height of the posts. Mrs. White had backed into the driveway and noted that the new sign, at the height it is presently, greatly impedes the sight distance from the left coming out of the driveway. You almost need to have the front end of your vehicle into the roadway to see if traffic is coming from the left clearly. She asked for direction from the Board.

After discussion, it was the consensus of the Board to send the YMCA a letter letting them know the present position of the sign is unacceptable and they would need to change it back to what the Board had approved. Mrs. White will contact the YMCA and report back to the Board next month.

**Julian Dunlop re: new restaurant business at 89 Main Street**

Mr. Dunlop had contacted Mrs. White with a request to come to the Board in June and speak to them regarding a new business he was planning for 89 Main Street. Mrs. White asked what information the Board would like Mr. Dunlop to bring with him. The Board asked Mrs. White to invite Mr. Dunlop to speak to them on June 18 and ask him to bring with him his new tenant / manager for discussion of what he plans on doing with the property.

Mr. Moreau also noted Mr. Dunlop wants to tear down the existing house on the property, move it further back from the road and build a new one. Mr. Morales opined if the house was town down, it could not be rebuilt as there would then be two buildings on one lot. Ms. LaBranche stated it was allowed as it was a residentially zoned area, but it could only be a single family home and would need to meet all current setbacks and requirements. The restaurant is a grandfathered use and cannot be expanded.

**Discussion of the ZBA decision on the Woldridge Lane septic design appeal**

Ms. LaBranche reviewed the Woldridge Lane appeal to the Zoning Board with the Board. Following the Supreme Court's decision to uphold the Planning Board decision not to extend Woldridge Lane further than the allowable 1,000 feet for a proposed site plan for 7 then 4 houses, the owner of the property (Mr. Story) had approached the Building Inspector for approval for a septic design for one house. Upon discussion with the Town Attorney and the Building Inspector, it was ascertained that Mr. Story's property was not a buildable lot as it did not have the required frontage to meet Town ordinances, and also did not meet RSA 674:41 which describes the type of street upon which a buildable lot needs to be located.

Mr. Story appealed the Administrative Decision of the Building Inspector to the Zoning Board; with the first hearing being on April 23rd and the second hearing on May 14.

Ms. LaBranche and Mr. Moreau had attended both the ZBA hearings; Mr. Cacciatore had attended the May hearing. In the course of the discussions, both Mr. Moreau and Ms. LaBranche notified the ZBA that in the Town Attorney's opinion, it did not meet the standards for granting of a building permit or a development. The ZBA determined the lot did in fact meet the requirements of the statute and was a buildable lot.

The ZBA found that the Planning Board, in the course of approving the subdivision, had accepted the 50' right-of-way (Parcel A) as an extension of Woldridge Lane, which is a public street; that the property is a pre-existing, non-conforming lot, and thus is a buildable lot. They consider Parcel A as access to the lot and as a result, they reversed the Building Inspector's decision

Ms. LaBranche pointed out that all subdivisions abutting undeveloped land are required to provide a 50' right-of-way connection to allow for potential, future development of that land. It does not say it can be developed or will be developed, it's just giving a ROW for potential expansion of development into the undeveloped land in the back. Nowhere in the original minutes of the approval of the subdivision was there any mention that it was anything other than that. There was no waiver requested, it didn't talk about it becoming part of Woldridge Lane except for Note 10 on the site plan, which states "*Parcel A - 50' right of way / easement to be deeded to the town as part of roadway, not paved.*"

Mr. Story's attorney concluded and maintained that Note 10 on the recorded plan established merging Parcel A with the roadway thus making it part of the roadway. Mr. Moreau noted that Woldridge lane was approved to not be longer than the approved 1,000'; the present length of the paved area of Woldridge Lane is 990'. If the Town had accepted this Parcel A as part of the road, it would have been closer to 1,100'.

There is no other document other than Note 10 on the plan that shows them as one entity; establishing the right-of-way as one road. As pointed out on the documents in the packet, it was clearly distinguished Woldridge Lane was a street and the 50' ROW were two different things.

The Town Warrant of 2003 asks if the Town will accept Woldridge Lane as a town road; there is no mention of Parcel A. Ms. LaBranche opined there was not enough evidence to indicate that Woldridge Lane and Parcel A were ever joined to make one street.

RSA 674:41, I section III, states: *"This section shall supersede any less stringent local ordinance, code or regulation, and no existing lot or tract of land shall be exempted from the provisions of this section except in accordance with the procedures expressly set forth in this section. For the purposes of paragraph I, "the street giving access to the lot " means a street or way abutting the lot and upon which the lot has frontage. It does not include a street from which the sole access to the lot is via a private easement or right-of-way, unless such easement or right-of-way also meets the criteria set forth in subparagraphs I(a), (b), (c), (d) or (e)."* Mr. Story's attorney kept stating that 674:41 does not apply because it is a pre-existing, non-conforming grandfathered lot. Ms. LaBranche opined 674:41, I section (c) was the more correct section of the RSA that should have been satisfied.

Ms. LaBranche pointed out that the decision by the ZBA directed the applicant to come back before the Planning Board to figure what to do about the roadway. She will look at the road plan to see if the design of the road includes Parcel A. Nothing has ever been improved on the right-of-way. There are questions if it is actually Town-accepted road and if so, who is going to build it?

Mr. Morales was surprised that the ZBA had gone against the findings of the Town Attorney. The Town has 30 days in which to ask for a reconsideration of their decision, and that request has to come from the Selectmen. Ms. LaBranche, Mr. Cacciatore and Mr. Moreau will meet with the Selectmen on Tuesday to see how to proceed.

### **Powder Mill Road**

Mr. Quintal reported that there appeared to be a historical bound dated 1785 missing from a property which borders East Kingston, Exeter and Kensington where they are conducting alteration of terrain. The Board agreed it was unfortunate that such a piece of history would come up missing.

### **ADJOURNMENT**

**MOTION:** Dr. Marston **MOVED** the Planning Board adjourn; Mr. Morales seconded. The motion was unanimous.

The meeting was closed at 8:50 pm. The next Planning Board meeting will be June 18.

Respectfully submitted,

*Barbara White*

Barbara A. White  
Planning Board Secretary

Minutes approved July 16, 2015  
Mr. Cacciatore, Chairman