



**PLANNING BOARD
TOWN OF EAST KINGSTON
New Hampshire**

2019-2020
Joshua Bath, *Chairman*
Tim Allen, *Vice Chairman*

Approved MINUTES
Zoom Meeting - May 21, 2020
7:00 pm

The Town of East Kingston Planning Board met remotely through a video conference (Zoom) meeting, Thursday, May 21, 2020 at 7:00 PM. Due to COVID-19, and pursuant with NH Emergency Orders, no public meeting location was utilized.

AGENDA:

Continued Public Hearing for Subdivision application for the Wayne R. Ewald Revocable Trust, 14 Tilton Lane (MBL 14-03-12) and Pamela A. Ewald, 2 North Road (MBL 14-03-07) for a 17-lot cluster subdivision (Tilton Village Estates, LLC) - Barry Gier / Jones and Beach

Members Present: Chairman Joshua Bath, Vice Chairman Tim Allen, Dr. Robert Marston, Bill Caswell, Emily Andersen, Scott Orleans, Ex-Officio Bob Nigrello, and Selectmen Joe Cacciatore.

Advisors Present: RPC Senior Planner Julie LaBranche.

Also present: Mr. Barry Gier PE / Jones and Beach representing the Wayne R. Ewald Revocable Trust; Applicant Sal Ragonese and various residents of the Town of East Kingston.

Chairman Bath made a statement regarding video bombing:

If tonight's meeting is interrupted by outside sources, this meeting will be immediately terminated and public hearings will be continued and rescheduled to another date and time to be announced and published. This is our second video conference, so we ask for understanding and patience for any technical difficulties that may occur during the meeting.

Mr. Bath explained how the meeting will proceed: He will open the public meeting, role call of members will be called, other town officials will be recognized, minutes will be approved, followed by new board business and then continued hearings. Mr. Bath will introduce the applicants, who will give a brief description of why they are before the board, followed by any presentations. Only planning board members will ask questions of the applicants at this point. Once the board members have finished with their questions, the floor will be opened for public comments. Please announce yourself by name and address and make any comments to the board and not the applicant. When public comments are completed, the public comment portion will be closed. Then the board will deliberate and may ask additional questions of the applicant. A motion and second will then be asked for to accept or deny the applicants requests, and there will be a vote of the board members.

Vice Chairman Allen explained people should be viewing their screen in gallery view, and asked participants to mute themselves unless asking questions to eliminate background noise. If anyone has a problem during the meeting connecting, Mr. Allen provided his phone number so he would be informed that someone could not connect with the meeting and either provide guidance to connecting or terminate the meeting as it a requirement the meeting be available to the public.

CALL TO ORDER: This meeting of the East Kingston Planning Board was called to order at 7:05 pm by Chairman Bath.

Minutes:

Mr. Bath asked for a **MOTION** to approve the April 16 minutes.

Mr. Caswell **MOVED** to approve the April 16th minutes as presented; second by Mr. Allen. Ms. LaBranche asked for an amendment to the minutes - to add that it was video conference meeting.

Roll call vote to approve with the amendment – Mr. Bath – aye; Mr. Allen – aye; Dr. Marston – aye; Mr. Caswell – aye; Mr. Nigrello – aye. The minutes with the amendment were approved with a unanimous vote.

Mr. Bath opened the continued Public Hearing.

The applicant had agreed to second party reviews for a wetlands survey and a traffic study.

Mr. Gier noted that since the last meeting, they have received the wetlands report from Rockingham, Country Conservation District - Soil Scientist Michael Cuomo, and the traffic study conducted by TEPP LLC – Kim Hazarvartian.

The wetlands report found a small wetland area that was missed on the original plan, which had been flagged, and two vernal pools. Mr. Gier presented an updated yield plan showing the new wetland/vernal pool areas denoted in red and yellow with setbacks depicted. He noted they do not create any issue with the yield plan.

Mr. Bath had originally suspected the finding of these new wetlands/vernal pools might create issues with placement of septic systems and driveways, but in looking at the plan further realized there was adequate room for both.

Mr. Caswell asked if vernal pools need to be protected. *Mr. Gier stated East Kingston has no additional protection for vernal pools, but they would be treated as a wetland.*

Mr. Orleans asked about the vernal pool highlighted in red – it seemed very deep. Would it be filled in? *Mr. Gier noted no wetlands will be filled in. The vernal pools and wetlands would be further depicted on the future subdivision plan.*

In regard to the traffic safety review which they received just today (May 21), Mr. Gier stated they were surprised they weren't invited to attend the site walk with the traffic engineer and were not provided the draft report. He stated they could have had discussion regarding potential revisions or alternatives. The intersection could be constructed with movement limitations and improvements, such as a right turn /right only with additional turn lanes and/or accel and decel lanes.

Mr. Bath reviewed the takeaway from the traffic report. The board, also the police chief and the road agent, have expressed safety concerns about the entrance for months. Police reports noted in the past 10 years there have been 27 accidents / incidents (vehicles going off the road); this is one of the reasons for the independent consultation with the safety engineer. Although Mr. Gier suggested some options that could alleviate the problems, the safety engineer noted that having the entrance at the location shown would only exacerbate an already safety-prone area. The board needs to have further discussion about this.

Mr. Gier noted they were speaking to the yield plan, which shows could the subdivision be constructed. DOT has approved the presented location for the road. The traffic study has stated East Road is not safe currently and the proposed entrance does exacerbate it, but mitigation issues could be employed which could make it a viable intersection. They are now looking to ascertain if the yield plan is possible; the applicant opines it is possible. The yield plan shows 18 lots could be constructed. Potential future mitigation or possible relocation of the intersection can be discussed.

Mr. Bath noted there are other alternatives which could affect the yield plan. Mr. Gier stated the yield plan is only to show the potential. Mr. Allen stated that although the yield plan is feasible, in order to meet the safety issues for the subdivision to be approved by the town, reconfiguration of the yield plan could reduce the number of lots. He is apprehensive about locking in the number of lots for a subdivision that has road entry and exit point that is unsafe and creates a safety problem. They are trying to understand if it is a viable yield plan.

Mr. Gier noted the traffic report says it is, with mitigation (i.e., accel / decel lanes). Mr. Bath noted that would still need to be approved by the DOT, and the costs associated with the enhancements. Mr. Gier said they were just speaking to the yield plan; was it feasible. Engineering scenarios for the roads and drainage, etc. is not done for the yield plan.

Ms. LaBranche noted that although the yield plan is a conceptual plan that covers as much as possible for meeting the requirements and regulations for a subdivision, the Planning Board could entertain accepting the yield plan with a condition (the yield plan as shown shows a maximum number of lots which is not guaranteed given the fact there are safety concerns with the intersection with East Road as shown on the plan). Any improvements to the entrance to Rt 107 would have to be cleared through DOT and the number of lots or configuration could change depending on what's negotiated to address the safety issues.

Ms. LaBranche commented regarding the suggestion to install an Eastbound side Shoulder lane, decel / turnoff lane for traffic trying to make a righthand turn. The DOT would need to plow those areas. It's not clear whether they would routinely do that as it would require them to come back around make an extra pass, which is another element of maintenance moving forward. Any entertainment of accepting the yield plan would need to be heavily caveated. This is a conceptual yield plan and the final plan may or may not reach the full potential. The PB cannot guarantee that as accepting the yield plan.

Mr. Gier agreed in theory, but noted this is not the subdivision plan. The application is not for the proposed yield plan to be constructed as shown. The yield plan only sets the number of lots that are available; if their design doesn't fit 17 lots on the cluster subdivision, there will be fewer lots. DOT will not allow them to build any improvements that they will not maintain. The town can require them to design safety improvements (accel/decel lanes) but if DOT does not agree with those improvements, they will deny the permit. Approving the yield plan does not indicate they can fit 17 lots on the cluster subdivision plan, it only shows the potential for that number of lots.

Mr. Caswell asked if there was a range of mitigations that may be successful; would they consider moving the roadway? Mr. Gier does not wish to confuse the yield plan with the subdivision plan. They would hope to get the town to approve the yield plan as it is. Moving on to the cluster design is where they can discuss the potential for mitigation, i.e. - movement of the roadway, etc. They would like to set the yield plan so they can move on to discuss the cluster subdivision plan. Then they will look at moving the roadway and any mitigation necessary.

Mr. Gier noted there were three different options for the intersection: 1 – right in/right out only and accel / decel lanes. This appears to be an option from Mr. Hazarvartian's report. 2 – relocate the intersection further west towards the pond. 3- eliminate the intersection with Rt 107 which would require a waiver from the cul-de-sac length and the maximum number of units on a cul-de-sac. Options 1 & 2 would need DOT approval.

As the applicant, they are looking for input from the Planning Board as to which of the options they would entertain so they can move forward with a cluster design the board will be happy with.

Mr. Allen noted he shares all of the safety concerns of the board and town regarding the intersection, but he also feels the requirements the applicant has proposed for the yield plan have been met. It is feasibly buildable, but maybe not approvable from a Planning Board perspective because of the safety concerns.

Dr. Marston asked if there had been any consideration for having a loop and having the exit come out at Ewald's house on Tilton Lane? *Mr. Gier stated they have not looked at that specifically. They would consider having a cul-de-sac, but are not sure a loop road would work because of the width of the property. Would the Planning Board entertain that option? Being a one-entrance road, it might require the same waiver for cul-de-sac length.*

Mr. Allen noted there are no town requirements for distance between two roadways. With the frontage off Tilton Lane, you could make a loop. There could be 50' between the in and the out road.

Mr. Bath asked Ms. LaBranche if she had any advice on accepting the yield plan as shown given the fact Mr. Gier has noted that approval of the presented yield plan does not necessarily mean it would be the final plan. Ms. LaBranche noted the yield plan is acceptable as presented tonight with the new wetlands depicted, with a caveat the traffic safety issues raised regarding the intersection proposed Tilton Lane with Rt 107 are yet to be resolved or mitigated. That element of the yield plan has not been fully permissible yet. As of yet, intersection specifics are unknown and undetermined.

Mr. Caswell commented on the wetlands report. The report says there is a predominance of wetland-based vegetation; how many different species is that? The report makes the statement "does not meet the criteria for hydric soil". He would like to understand what the criteria are. Just which criteria are met and which are not? The report concludes that "although areas appeared to be wetlands they are not wetlands as defined, as the soil does not meet the hydric criteria; the site is an anomaly." There was no discussion on soil structure, or how there is evidence of wetlands vegetation without it being a wetland.

Mr. Gier spoke to the original wetlands scientist Jamie Hong who met with Mike Cuomo on the site. To be considered a wetland, there needs to be both wetlands vegetation and hydric soils. None of the soils in any of the corings dug met the standards for hydric soils; they agreed on the wetland flagging as shown.

Mr. Caswell opined the report was incomplete as there is no description of the soil findings and there is no description of what they found to show how they reached their conclusion it is not wetlands. There are no criteria stating what did or did not meet certain standards. They described what their conclusion was but it is not clear in the report. The board should understand how RCCD came to the conclusion they did. They state there is a predominance of wetlands vegetation, which appears to be a strong finding. Ms. LaBranche agreed the report could have been clearer.

Ms. LaBranche reviewed there are three criteria that have to be met in order to designate a wetland: 1 – the soil signature (type of soils); hydrology (where the ground water table is); and vegetation. Vegetation can occur where there is pooling of water (such as rutting from construction vehicles). This analysis was not to perform soil samples all over again and re-evaluate everything. They most likely looked at the wetland delineation map and the flagging, and spot checked with corings to test what the soil profile is like. This was not a delineation of wetlands, just a spot check on what had been previously done.

Ms. Anderson agreed the report was not complete. There was vegetation, hydrology, and soils but they did not do a re-evaluation which she finds disappointing. The board showed concerns and they only went out and spot checked. She agrees with Dr Marston for a loop road and would like to see a yield plan that shows that. That would allow for a safe way to get in and out.

She does not like the Rt 107 option for safety concerns. She asked if there was a cap on the number of cluster developments allowed in East Kingston? *Ms. LaBranche answered there was not; only the elderly housing developments are capped, and they are at maximum now – no more can be built.*

Mr. Bath stated the yield plan as presented adequately shows they have the dimensional requirements to build a subdivision. This is not the cluster subdivision. The next phase, which is the actual cluster development plan, is where everything will be fine-tuned – road, etc. and if some lots need to be eliminated to accomplish what they need to do, Mr. Gier has indicated they are amenable to change the plan.

Mr. Allen noted the cluster subdivision is an elected decision on the part of the applicant; it does not mean they get to build any more houses than for a conventional subdivision plan; this is the reason for the yield plan. They meet all of the requirements, both DOT and town, for a conventional subdivision. Although the town has safety concerns, they could ask for a vote of the board.

He agrees with Bill the wetlands survey was lacking; it could have been more complete. He understands the comparison of the vegetation report as his family owns a piece of property with similar structure – wetlands vegetation but soil samples show it is not wetlands. The soils do not hold the water, but the vegetation grows as the water pools at the surface. The next step is to take jurisdiction and then vote on the yield plan.

Mr. Bath opened the public session.

Gordon Powers, 26 North Road - abutter – his property runs along Tilton lane. He has concerns about routing the entrance and exit to Tilton lane. It would put multiple cars, school buses and delivery trucks coming down the road multiple times a day. He feels it is unfair to the people who abut Tilton lane, and that would shift the safety issue from Rt. 107 to where Tilton lane meets Rt. 108.

Gail Anderson, 45 East Road – not an abutter but lives on East Road – she would be very close to where the road would come out to 107. She has lived there over 30 years; it is a dangerous road and it would be very dangerous for buses and cars turning in and out of the proposed road. She has seen multiple accidents at that location. She lives right before the golf course at the top of the hill and can barely get out of her driveway. It's hard to see cars coming from the valley by the golf course, and going back down the hill towards East Kingston. She inquired if Monahan's is going to give up some of their property for extra lanes? It seems very dangerous and although she can understand Mr. Power's apprehension to have the entrance come out on Tilton Road, Rt. 108 is straight and flat and not located downhill and on a curve. There is entrance and exit at the Autumn lane on Rt. 108 which appears to be safe.

Additional people on the conference – Donna Porier, Pam Ewald, caller Brian, and Sal Ragonese – all had no comment.

Mr. Bath closed the public session.

Mr. Bath **MOVED** to take jurisdiction of the Tilton Village Estates 17-lot cluster subdivision; second by Mr. Allen.

Roll call vote – Mr. Bath – yes; Mr. Allen – yes; Dr. Marston – yes; Mr. Caswell – yes; Mr. Nigrello – yes - approved with a unanimous vote.

Mr. Bath asked for a **MOTION** to accept the yield plan.

Mr. Allen **MOVED** to accept the yield plan for Tilton Village Estates, version dated 5/21/2020 showing vernal pools and additional wetland locations, with the caveat traffic safety issues at the intersection of the Tilton Lane extension where it meets Route 107 are unresolved and must be mitigated to Planning Board satisfaction as the project moves forward to the cluster portion of the subdivision project; Mr. Nigrello seconded.

Roll call vote – Mr. Bath – yes; Mr. Allen – yes; Dr. Marston – yes; Mr. Caswell – yes; Mr. Nigrello – yes- approved with a unanimous vote.

Mr. Gier noted as applicant, they would like to know if the board would entertain either moving the driveway further west (closer to the pond), or showing proposed improvements at the original location with a review from Mr. Hazarvartian.

Mr. Bath had discussion with Mr. Hazarvartian at the site walk and discussed two options in addition to moving the proposed driveway towards the pond. 1 – move the driveway and have a secondary driveway onto North Road or 2 – have a cul-de-sac (with a waiver by the board) with only an emergency entrance onto Rt 107, which would constitute all traffic funneling back out to Tilton Lane.

Mr. Gier asked of the board could do a straw poll on the extended cul-de-sac (with waivers for the length and number of units on it).

Mr. Nigrello opted for the safest way in and out. They do not want to increase the number of accidents either on East Road or North Road.

Mr. Allen noted he is most comfortable with from a safety standpoint for the loop coming out onto North Road. He would like to see a traffic safety analysis for a loop coming out across from Jalisco's onto North Road (which would require significant change to the cluster plan and a wetland crossing) versus having the extended cul-de-sac with emergency services access only.

Mr. Bath stated a suggestion from the Traffic Engineer for the Rt. 107 entrance was to have a bypass lane heading North for people to pull off and go around a stopped vehicle trying to make a left-hand turn into the development. This would allow through traffic to continue and alleviate some of the safety concerns. For the Southbound direction, having a tapered right turn or shoulder would enable a vehicle to pull off the roadway to safely turn into the development, allowing through traffic to pass. They are not closing the door on any options and are taking public comments very seriously. There is much concern with the safety aspect of the intersection.

Mr. Gier stated the applicant is amenable to entertaining those options, but does not want to waste time and money for a full design if the board was not comfortable with certain options. They are looking for direction from the board.

Mr. Allen agreed the board and the town does not want to waste the applicant's time and/or money. The intersection on Rt. 107 has significant safety concerns. Alternate exits (i.e.- onto Rt. 108 or the cul-de-sac) on a preliminary plan would give the board something more concrete to look at. Mr. Bath agreed the board would entertain other options.

Ms. LaBranche suggested requesting a meeting with the DOT regional office to review the traffic safety report with them to evaluate how these options would work with their protocols and road maintenance. This place on Rt 108 is the last place the Northampton garage services; it is the end of their route. They would need to make multiple passes to clear the accel / decel lanes which could be problematic. The first line of business would be to either eliminate that option or vet it in more detail.

Mr. Allen remarked the waived, overly extended cul-de-sac with a loop at the end for emergency entrance would not require a lot of change to the plan; lots 9 and 8 might need to change but this option would place a large burden on Tilton Lane. Could the board perhaps have a straw poll to see how many members are in favor of the road coming out on Rt 108? Mr. Bath asked for a straw poll vote on the road coming out onto Route 108.

Straw poll to consider the Rt 108 entrance – Mr. Bath – yes; Mr. Allen – yes; Dr. Marston – yes; Mr. Caswell – yes; Mr. Nigrello – yes.

Ms. LaBranche noted Table 1 of the traffic study shows trip generation to be approximately 200 trips at the intersection.

Mr. Gier asked if the board would entertain moving the entrance close to the fire pond? That way if the DOT will not allow them to come out onto Rt 108, they would have an alternate proposal to show them.

Ms. LaBranche opined moving closer to the pond only eliminates the site distance issue, but not the safety concerns coming from either direction. Mr. Bath noted the safety report also states it would help with the site distance, but is still not an ideal location. Rt. 107 is a heavily traveled road with solar glare, ice and snow conditions, and windblown snow coming off the fields. Consensus is moving the entrance closer to the pond is still not ideal and only slightly better safety-wise.

Mr. Caswell thinks the traffic safety report is comprehensive and would like some more time to look at it. What option gives the 400' site distance in all weather conditions? Ms. LaBranche described that Mr. Hazarvartian took photographs from different vantage points; perhaps a collage of those photos would show the board more information regarding the site distances.

Ms. LaBranche and Mr. Bath walked the road after the site walk. In some places the way the road banks you are actually looking away from the entrance. Line of site on a picture is very different than actually driving it. The police chief had parked the cruiser just above where the hill was when they walked the site. People were traveling much faster than the 35mph speed limit. It was uneasy walking on the side of the road.

Mr. Gier will submit a couple of options to DOT to see if they would be acceptable. Then he will put together another plan for the planning board.

Mr. Allen stated that after DOT review and preliminary approval, the board will look at preliminary plans showing the loop back on to 108 (alleviating the safety concerns with the entrance on Rt 107); the feasibility of an oversized cul-de-sac loop at the end with a safety entrance for emergency services; and moving the entrance closer to the fire pond.

Ms. LaBranche suggested there was one more option – a combination of a loop road and loop to Rt 108 which could allow for a shorter cul-de-sac. Mr. Gier has concerns in regard to the entrance onto 108 as it is close to the intersection 107/108 and would need a wetlands crossing.

Mr. Bath **MOVED** to continue the application for the 17-lot cluster subdivision application at 14 Tilton Lane (Tilton Village Estates) until June 18; seconded by Mr. Nigrello.

Roll call vote – Mr. Bath – yes; Mr. Allen – yes; Dr. Marston – yes; Mr. Caswell – yes; Mr. Nigrello – yes - approved with a unanimous vote.

Mr. Gier thanked the board.

Ms. LaBranche reminded everyone they have not gone out the Governor's State of Emergency Executive Order #23 which extends all planning board statutory requirements beyond the 65 days. Ms. LaBranche asked Mr. Gier to email a copy of the amended yield plan and mail a paper copy to town hall.

Mr. Bath asked if there was any additional board business.

Ms. LaBranche noted they would be receiving the new Circuit Rider Contact for 2021 to review and asked if it could be placed on next month's agenda. If approved, the Planning Board would need to send a letter of recommendation to the Selectmen to accept the contract. Mrs. White will place the RPC Circuit Rider Contact review on the agenda.

As a reminder to the board, the June 18th meeting will be by Zoom video conference. The agenda will specify the Meeting ID and Password for that meeting

Adjournment

Dr. Marston **MOVED** to adjourn; Mr. Allen seconded, with a unanimous vote.

Mr. Bath closed the meeting at 8:26 pm.

Respectfully submitted,

Barbara White

Planning Board Secretary

Joshua Bath

Chairman

Minutes approved **June 18, 2020**