

Town of East Kingston, NH
Planning Board Minutes

Date of Meeting: June 6, 2002
Place of Meeting: East Kingston Town Hall
Time of Meeting: 7:00 p.m.
Type of Meeting: Special Regular Meeting

Present: Richard Smith, Chairman; Don Andolina, Alternate Ex-Officio; David Morse, Roby Day, Alternate, Gene Madej, Alternate and Cathy Belcher, Alternate.

Others Present: Maura Carriel, Rockingham Planning Commission
Larry Smith, Conservation Commission
Andy Conti, Fire Department
Kent Shepherd, Building Inspector

Call To Order: Mr. Smith called the meeting to order at 7:03 p.m. and the roll call was taken by Mrs. Rice.

Mr. Smith appointed Mr. Day and Ms. Belcher as regular members in place of Mrs. Fillio and Dr. Marston.

In-Coming Correspondence:

1. Exeter River Advisory Counsel Publication.
2. Letter from Kent Shepherd, Building Inspector relative to a proposed Zoning Ordinance change regarding the date of issuance for building permits. The board discussed the date of issue and concluded the applicant should be notified that the building permit is ready to be picked up within 14 days of notification that such permit is available and the six months is calculated from the date of notification. If the building permit is not picked up within the 14 days, the building permit will be re-issued to the next person on the list. This item was further discussed later in the meeting with a final determination of procedure being made at that time, please refer to the minutes recorded later in the meeting.

Acceptance of Minutes for May 16, 2002:

The board made corrections to the minutes.

Mr. Day made a motion to accept the minutes as amended.

Mr. Morse seconded. The motion passed unanimously.

Continued Public Hearing for Julien Dunlop, Site Plan Review proposal to raze and rebuild Carmen's Restaurant at 89 Main Street

Mr. Julien Dunlop, Mr. Bruce Scammon, Emmanuel Engineering, and Attorney Kerri Marshall were present.

The board received a report from Rockingham Planning Commission dated May 30, 2002 and two letters from Marshall Law Office dated June 6, 2002 and May 25, 2002.

A revised set of plans was presented before the board by Mr. Scammon for the proposed construction of a new restaurant at the site of the former Carmen's Chicken on Tax Map 14, Block 2, Lot 5. It was noted by Mr. Smith that this building is considered a legal non-conforming use and structure and that no complaints had been received about the lighting on the site.

It was noted a photometric plan was provided and identified as Sheet 5 of the plan set. A written waiver request was received relative to Site Plan Review Regulation, Section VII.6.D that the maximum illumination anywhere on the site shall not exceed 0.5 footcandles.

Mr. Andolina made a motion to grant a waiver to Site Plan Review Regulation, Section VII.6.D that

Mr. Day seconded.

Ms. Belcher asked for presentation on the lighting proposal.

The board reviewed the lighting plan. Mr. Scammon depicted the lighting fixtures for the site and the range of illumination for each of the five lighting posts. It was noted the lighting fixture near the handicapped entrance ramp and at the corner of Route 108 exceeds the illumination requirement and spills over the lot line. The remainder of the proposed lighting does not exceed the 0.5 foot candle requirement. The board discussed a dual light attached to the building, shorter poles, safety of the patrons, and lighting effects on traffic approaching the intersection and stop sign. The board reviewed the spillage of light onto the road, but further noted lights are located on the poles by the State and that the town has no jurisdiction over these two lights. It was noted the lights are shining downward, not outward as proposed on the plans.

The motion passed unanimously.

The board reviewed the parking layout as currently revised. The existing lot coverage consists of 18,655 square feet and with the new proposal the proposed lot coverage is 18,052 with a net decrease of over 600 square feet. It was further noted a berm and treatment swale in the vicinity of the parking area has been proposed to direct the water away from the parking and building.

It was noted a revised waiver request for Site Plan Review Regulations, Section IV.2.k for soils data.

Mr. Larry Smith, Conservation Commission noted there is no comment or problem with regard to the issuance of this waiver.

Mr. Day made a motion to grant a waiver to Site Plan Review Regulations, Section IV.2.k for soils data.

Mr. Morse seconded. The motion passed unanimously.

The board reviewed the proposed land scape plan as provided in the revised plan set. The recommendation from Rockingham Planning Commission was to discuss the size of the spruce trees to be planted and that the plan indicate the size of the trees. The board, after discussion, asked that five foot spruce trees be planted and noted as such on the plans.

The board reviewed the need to submit these plans for review by the Town Engineer. It was noted the Engineer would typically review the site plan for drainage and it was noted a berm and treatment swale have been added to the plans. It was again noted the net decrease in lot coverage would give additional areas for drainage. The consensus of the board was they did not feel these plans need to be reviewed by the Town Engineer.

The board reviewed the proposed signage for the site. The applicant proposes to "replace in kind" the current signage. Pictures were provided and reviewed by the board members. This is noted on the plans to include shape, size, height and location will remain the same.

Mr. Morse made a motion to grant conditional final approval as follows:

Waivers:

3. Site Plan Review Regulations, Section IV.2.k for soils data.
4. Site Plan Review Regulations, Section VII.6.D regarding maximum illumination on the site shall not exceed 0.5 foot candles.

Conditions:

1. Note shall be added on the plan depicting that five (5) foot spruce trees shall be planted.
2. Plans shall be stamped and signed by a NH Licenced Land Surveyor and Professional Engineer.
3. The light fixture shown on the corner of Routes 108 and 107 shall be removed from the plans. (This was accidentally left on the plans)
4. All waivers granted shall be duly noted on the plans.

Ms. Belcher seconded. The motion passed unanimously.

Continued Public Hearing for Jeff Caley and Gary Denson for a proposed elderly housing community located at 163 North Road, Country Hills of East Kingston

A request from Civil Consultants was received requesting a continuance of the public hearing until the next available meeting due to the number of changes that need to be made on the plans from

recommendations received by the Town Engineer.

Ms. Belcher made a motion to continue the Public Hearing until July 18, 2002 at 7:15 p.m.

Mr. Morse seconded. The motion passed unanimously.

Suzanne Ryan, Discussion Purposes Only, proposed LotLine Adjustment

Ms. Suzanne Ryan, Dennis Quintal, PE and Attorney Charles Tucker were present.

Ms. Ryan presented a proposed lot line adjustment located at the East Kingston-Newton Town line. The lot line adjustment consists of one five acre parcel, one 30,000 square foot parcel known as lot "a" and one 66,000 square foot parcel known as lot "b". The frontage of all three of these lots is located in Newton with the "back-land" being located in East Kingston. Newton's requirement for frontage is 150 feet. The proposal calls for a lot line adjustment between the five acre parcel-which currently is Ms. Ryan's home and lot "a". Lot "a" will actually become more conforming to the Newton Zoning Ordinance consisting of 93,000 square feet after the lot line adjustment. Each of these three parcels have the sufficient 150' frontage for the Town of Newton. It was noted approvals from Newton and East Kingston Planning Board would be needed.

The board discussed the proposal and discussed the location of the two new homes and the location of either in Newton or East Kingston. It was noted that the homes could be built in either town. The board reviewed the RSA with regard to municipal boundaries. The applicant agreed to place a septic system, driveway and house location on the Newton portion for each of the two vacant lots. The setbacks will be shown on the plans. When the application is received, the public hearing will be scheduled.

Discussion Regarding Issuance of Building Permits

The board discussed the date of issuance that should be used for the issuance of building permits. The board felt that perhaps creating a definition of what constitutes the "date of issuance" would solve this problem.

Mr. Morse made a motion to post a Zoning Ordinance change for a public hearing on July 18, 2002 at 8:00 p.m. for the following definition:

"The "Date of Issuance" shall be defined as the date of the letter sent to the applicant by certified mail notifying the applicant that the building permit is complete and can be obtained at the Selectmen's Office. The applicant shall within 14 days of the date of such letter, pick up the completed building permit and pay any necessary fees associated with the building permit. If such building permit is not picked up within 14 days, the applicant shall forfeit his/her right to said building permit and the building permit application process shall be offered to the next applicant on the list"

Mr. Day seconded. The motion passed unanimously.

Public Hearing for a proposed two lot subdivision of Patricia O'Shea, Tax Map 15, Block 2, Lot 2
Located at 17 Stumpfield Road

Dennis Quintal, PE, Civil Construction Management was present. No abutters were present. Plans were presented to the Board.

The board received a report from RPC prepared by Maura Carie l.

The proposal is for a two lot subdivision located at 17 Stumpfield Road. The parcel consists of 34.04 acres and the applicant would like to subdivide one 3.0 acre lot. A portion of the subject parcel falls within the Wetlands Conservation District. An individual septic and well are proposed for the new lot.

Ms. Belcher made a motion to accept the plans for jurisdiction.

Mr. Morse seconded. The motion passed unanimously.

The board reviewed the RPC report as follows:

1. The plans are missing the stamp and signature of a Licensed Land Surveyor and Certified Soil Scientist. **This information will be provided on the mylar and subsequent copies.**
2. Correct Town map, block and lot number for proposed lot "a" should be added to the plan. **This item has been corrected.**
3. Building and septic setback requirements for the Wetlands Conservation District should be added to Note 5. All building setbacks should be drawn on the plan to define the building envelope. **This has been added.**
4. A proposed driveway location to lot "A" should be added to the plans. Subdivision Regulation Section IV.E states that each building lot shall have its own driveway, and that driveways shall be set back at least ten feet from abutting property lines. **This has been completed.**
5. The plan does not indicate the location of any existing structures, well, or septic system on lot 15-3-2. This information should be added to the plan to ensure that the remaining map 15, block 3, lot 2 conforms for the Town's Zoning Ordinance requirements. **This has been completed.**
6. Abutters are listed on the plan; all abutters should be keyed to the plan. **This has been completed.**
7. The material presented does not include a drainage report, which the Zoning Ordinance requires for all subdivisions within the Wetlands Conservation District. (Zoning Ord. Art. VIII, Section E.2) **This information was provided.**

8. A note should be added to the test pit and perc test data regarding witnessing by the Town's agent. **This has been added.**
9. Fire protection services are deferred to the Town's Fire Chief for review. The board reviewed the fire suppression as the proposed new home is located over 2,000 feet away. The applicant provided a waiver for this request noting an unreasonable expense to install a cistern or fire pond for one lot. Mr. Andy Conti, Fire Department was present and suggested that any further development on either of the lots would require fire suppression services.

Mr. Andolina made a motion to grant a waiver to Land Subdivision Regulations, Section IV,Q Any future development of Tax Map 15-3-2 or 15-3-18 shall provide the appropriate fire suppression systems.

Mr. Morse seconded. The motion passed unanimously.

10. The verbage that bounds are "to be set" should be removed. The Board requires a Certificate of Monumentation prior to final approval. **A Certificate of Monumentation will be provided.**
11. State Subd ivision Approval is required for the proposed lot "A" prior to final board approval. **This is pending.**

Mr. Morse made a motion to grant conditional final approval as follows:

Conditions:

1. Receipt of State Subdivision Approval and number shall be noted on the plans.
2. Certificate of Monumentation.
3. Plans shall be stamped and signed by a NH Licensed Land Surveyor and Professional Engineer.
4. The notation "Any future development of Tax Map 15-3-2 or 15-3-18 shall provide the appropriate fire suppression systems" shall be added to the plans.
5. All waiver(s) shall be added to the plans.

Mr. Day seconded. The motion passed unanimously.

Continued Public Hearing for Lewis Builders. site plan proposal for an elderly housing community located at 40 Willow Road

Mr. Peter Lewis, Mr. David Morse, Attorney Robert Fryer and Christian Frey were present. Mr. and Mrs. Mitchell, abutters were present. Town Counsel John Daly was present.

Plans were presented to the Board.

A synopsis of this discussion is as follows:

Attorney Freyer will make the necessary changes as outlined below:

1. Correction of all text to reference and to read "East Kingston" and the removal of "Lamplighter Estates" to "Cricket Hill".
2. Section 2-5-3 was clarified that parking spaces will not be used for "Recreational Vehicles" as a special parking area will be provided.
3. Section 2-7-1 excludes home occupations. This was verified with Attorney Freyer.
4. Section 2-7-4 references outside antennas. Cable Television services are provided.
5. Section 2-7-5 references small animals. The Board asked for provisions for birds/small animals.
6. Section 2-7-9 references the number of adults who may live within these units. The board discussed this issue at length with regard to the caregiver or perhaps a married couple taking care of a parent. It was felt the ordinance was written for two occupants with the option of a caregiver being able to live in the unit, as well. Board members felt that the way the text was presented, four people could live within one unit.

Mr. Andolina made a motion to allow occupancy within any of the units to be limited to not more than three (3) persons.

Ms. Belcher seconded. Mr. Day, Mr. Andolina, Ms. Belcher, Mr. Madej voted in favor. Mr. Smith was opposed.

Attorney Fryer noted he will change the language to read as follows: **"Occupancy within any Units is limited to not more than three (3) persons."**

7. Section 2-7-10, #5 was changed to read 55 years of age or older.
8. Section 2-7-10, F-the Board asked that when a census is taken each year to determine compliance with age requirements and other issues, that a report be submitted to the Town within 30 days of completion so that the Town has record that this community is within compliance of the Zoning Ordinance.
9. The board discussed the Federal Law with regard to the age limit of 55 and older. Attorney Daly was satisfied with the language as presented and it was discussed by the board that so long as the federal requirements do not change with regard to elderly housing requirements, this community would stay in compliance. The board discussed the second and third generation home owners and the possibility of this not staying an elderly housing community.
10. Section 18-7-the applicant agreed to change "seven (7) unit building configuration" to "two

(2) unit building configuration.”

11. On Page 45, the first paragraph will be eliminated as this item did not pass.

The board reviewed the Bylaws as presented. Textual changes such as changing to “East Kingston” and “Crick et Hill” will be made. Under Section VIII. Monitoring for Elderly Occupancy-the applicant has agreed to provide this information to the Board of Selectmen within 30 days of completion to insure that the occupants are meeting the necessary age requirements.

Mr. Frey presented a set of revised plans. These plans were revised according to the Town Engineer report dated May 21, 2002. Mr. Frey went thru each item with the board and explained the changes that were made. Many of the changes presented were engineering changes to the plan.

Other major changes and further review by the appropriate reviewing agency includes the following:

1. The elimination of the deceleration lane,
2. Traffic control installations based upon the revised Traffic Impact Study.
3. Drainage revisions-a revised report was received and given to Mr. Larry Smith, Conservation Commission for review
4. Bonding of improvements. Two bonds will be received-one for the connection to Maplevale and the other for the remaining infrastructure.
5. These plans will be reviewed again by the Town Engineer for conformance.
6. The applicant is awaiting the water system approval report. Copies of the actual water tests will be provided. No filtering is required on this system.

The board generally reviewed the plan and noted there would be 20, two unit buildings and the existing home will be renovated to a clubhouse.

Abutter Stewart Mitchell asked the board to reconsider the connection road to Maplevale. He was concerned about this being a short cut for other traffic. The board advised that this connection was implemented due to safety concerns and access to the two communities for emergency situations. The board felt this connection would enhance the movement of traffic and to allow alternative points of access and egress.

Ms. Belcher made a motion to grant a conditional approval for a site plan review for an elderly housing community as proposed by David G. Morse and Lewis Builders for 40 Willow Road with the following waivers and conditions:

Waivers:

7. Site Plan Review Regulations, Section VII.6.D regarding maximum lighting illumination on the site. “The lighting as proposed on the project has been shielded and will not spill onto adjacent properties. The waiver request is to allow for an illumination level greater than 0.5

foot candles on site to provide for adequate lighting for the residents of the development as shown on Sheet 11 of the plan set. A 0.5 foot candle is not adequate to safely travel along the roadway intersection or to assist an elderly resident enter their home or accessing the community center”.

Conditions:

1. Receipt of acceptable Condominium Declaration and By-Laws for Mature Life-Styles at Cricket Hill by Town Counsel.
2. Final acceptable report from the Town Engineer.
3. Review and report on the Drainage Report from the Conservation Commission.
4. Receipt and notation on the plan for State Subdivision Approval.
5. Receipt and notation on the plan for Site Specific.
6. Receipt of two bonds; one for the connection with Maplevale; the second for the improvements for Cricket Hill.
7. Receipt of report regarding Traffic Impact Study.
8. Receipt of water quality test reports.
9. This site plan consists of 40 units located within 20 buildings.

Mr. Andolina seconded. The motion passed unanimously.

It was noted that due to the approval of this plan, the previous four lot approved subdivision for 40 Willow Road is rescinded.

The board adjourned at 11:18 p.m.

Respectfully submitted,

Susan J. Rice, Secretary

Minutes Completed on June 12, 2002

Minutes Accepted on: _____