

## EAST KINGSTON PLANNING BOARD

June 17, 1993

Attending: Richard Smith, Sr., Chairman, Cathy George, Robert Marston and Joseph Cacciatore; Mel Keddy (late)

Others Attending: Peter Dow, RPC Circuit Rider; and Larry Smith, Conservation Commission

The meeting was called to order at 7:50pm by Chairman Smith.

The Public Hearing for Francis Colanton, Site Plan Review was opened at 7:51pm.

Attorney Robert Donovan, representing Mr. & Mrs. Colanton stated it was his understanding that this hearing is to relate to the Site Plan Review as it references to the portion of the property located within East Kingston and its use as a golf course. Attorney Donovan read a portion of a writing by Peter Loughlin, Attorney regarding Site Plan Reviews. The summation of the reading was that the use must not offend the public interest. It was noted that the ZBA has authorized the use and the next step is the regulation and application to this property and to determine what is in the public interest. It was noted the lion's share of the property (for the golf course) is in the Town of Kingston.

The small amount of land within East Kingston was referenced. This Planning Board has authority over this space only.

The land was described: 35 ft. of frontage on Rte. 107, going towards the woods for about 160 yards, then fanning out toward East Kingston to the rear of this property. While the statutes and the East Kingston ordinance exists, there are various things to look at, but some are applicable in Kingston and not East Kingston. There will be no buildings, no sitings, and no parking in East Kingston. The Board was requested to direct their attention to open space, the actual use and the location (approved by the ZBA), drainage and wetlands. It was noted that Jim Hayden was present to answer any questions to relate to space, drainage, etc.

Mr. Smith asked if Mr. Hayden had a wetlands map.

Mr. Hayden noted that this was part of the map in front of the Board at this time. This addresses Phase I, or the first nine holes only. There are no wetland crossings at this time, all is upland. The greens stop before the wetlands. Mr. Colanton wishes to start this summer and do Phase II later.

Mr. Smith said he did not know if the Board has ever handled a partial review, and stated that the Board wants to know what they have here before they make a commitment on what is proposed.

Mr. Hayden noted they have a time crunch, as Mr. Colanton wants to get going this summer. He noted they are only proposing greens and open space use remains in effect.

Mr. Cacciatore asked if they were entering via 107a.

Mr. Hayden stated no, they enter off 107 near the present buildings. (Within Kingston). He also said they have contacted DOT and they are ready for more information. The site distance is okay, now they are asking for the anticipated volume of traffic.

The leach field permit has been applied for. The front well is not being used, the back well will be used. There is a site specific plan in Concord now. They will provide this Board with a copy later to become part of the file.

Mr. Hayden stated they are prepared to ask for the waivers in writing this evening.

Mr. Cacciatore stated that he is concerned with the abutters, and note there is a residence very near to the area.

Mr. Hayden stated that they had their opportunity to voice an opinion at the ZBA hearing.

Dr. Marston arrived at 8:02pm.

Mr. Smith asked for Mr. DiProfio's opinion (the direct abutter of this property) as he is the most closely affected by this project.

Mr. & Mrs. DiProfio viewed the plan.

Mr. DiProfio remarked that it was likely that golf balls would be going through his windows. He noted that green is right on his property line, and there would be no way to keep people and balls off his yard. He stated he also has comments about the layout.

Mrs. DiProfio noted her concerns with people talking and the sounds carrying over...she noted the early am hours traditional for golf courses.

Mr. Ryan viewed the plan.

Attorney Donovan noted that there is only one access, and it has been there forever (from 107).

Mr. DiProfio cautioned that Attorney Donovan's reading and statement about public interest does not obligate East Kingston. He noted the ordinance addresses a general standard with appropriate buffers for privacy and noise reduction. As this is laid out, it is 90 ft. from the Kingston property line, identical to the setting of the T. There is no privacy or guarantee that the balls will not come onto his fields. He cited the 200 ft. buffer strip requirement between the uses; Non-residential and residential uses. He also noted that this buffer requires the area to be screened during the winter months and a landscaping plan to be submitted. Mr. DiProfio said he is not opposed to the golf course, he agreed this is an enormous piece of property and it is not necessary or wise to build the green ten feet from the fence and 15-20 ft. from his house. He stated the golf balls would be landing in his kitchen windows. Mr. DiProfio further noted that it has come to his attention that the Kingston Planning Board has written a letter requesting comments on the development. He said the Kingston Board has offered the East Kingston Board a chance for input. Mr. DiProfio stated he has written a letter in response and asked the Board to respond to the Kingston Board in a specific way that being a draft of a letter written and submitted by Mr. DiProfio.

The question was asked, what is Mr. Colanton going to do with the fence.

Attorney Donovan stated the plan is not cast in concrete, he wants to keep away from the wet areas, there are limitations within Kingston & East Kingston. Mr. Colanton is willing to construct a stable, high fence to abrogate the problem. The tree buffer is appropriate. Attorney Donovan stressed they are flexible and want to accommodate; and agreed this is a good use of open space as Mr. DiProfio had stated. He said that is really all they want.

Mrs. DiProfio expressed concerns with the use of her well and the possible disturbance of the water table.

Mr. Hayden stated that he would be more concerned with the storage of horse manure, already there.

Mr. DiProfio stated there would be more use of the water to water the greens and assured Mr. Colanton that if his well goes dry he will do something.

Attorney Donovan stated the abutters must be reasonable, no one has rights to stop progress.

Mrs. DiProfio stated that it was also not right to take away their rights.

Mr. Hayden noted that much of this area is open, it will be open still with the conversion of the horse pasture to greens.

Mrs. DiProfio stated that in the spring it is wet and if it is made worse with development, the water will be in their cellar.

Mr. Hayden stated that the hydrology will remain basically the same.

Mr. DiProfio asked if there would be any effect on his well.

Mr. Hayden said no, the Army Corps of Engineers is investigating now. Mr. Colanton would like to create an irrigation pond and wants to use the pond already in place for right now.

Mr. DiProfio asked if he could request Mr. Colanton to fix or dig him a well if his goes dry.

Attorney Donovan stated he could ask, but he would tell his client not to answer as this is an unfair assumption.

There was discussion about the loss of water, etc.

Mr. DiProfio noted that he is not sure of his rights and asked the Planning Board to include his well consideration be included in their decision process, at least for a couple of years to give protection to dig a new well and run a new line in case of trouble.

Mr. Keddy arrived at 8:15pm.

Mr. Joseph Murphy, 144 Depot Road, East Kingston asked if they did not have the cart before the horse in this matter, first it went to the ZBA and now to the Planning Board.

Mr. Smith stated this was done the same way for the other golf course.

Mr. Hayden stated Mr. Colanton has come to the Planning Board and was sent to the ZBA and then back to the Planning Board.

Mr. Murphy asked if Mr. Smith were also a member of the ZBA, and did he make he motion to approve the variance.

Mr. Smith answered yes.

Mr. Murphy then cited his concerns with traffic, noise pollution, members and guests and liquor problems. He stated he does not think this appropriate for a Residential/Agricultural area.

Mr. Dow stated that he has conversed with Mr. Hayden and believes this is the same plan that he saw last month and it was obvious there are a number of items not conforming to the regulations. He stated this may be with good reasons. He stated Mr. Hayden would be given a chance to ask for waivers and then asked Mr. Hayden to be quite specific in going through the regulations.

Mr. Hayden noted that there would be requests dealing with the buffer and erosion sediment control. He said Kingston Planning Board would be doing a site walk of Saturday, June 26th.

Mr. Hayden extended an invitation to everyone to attend this site walk.

Mr. Jackson Casey asked if it can be qualified because of unusual conditions.

The answer was yes.

Mr. Dow stated the burden is on the applicant to insure waivers do not compromise the ordinance.

Mr. Keddy asked about the traffic impact study.

Mr. Hayden stated this is not required by Kingston or DOT. Mr. Colanton supplied information.

Mr. Keddy asked if there was a way to predict the number of vehicles.

Mr. Colanton stated typically 100-150 people per day, based on the East Kingston Golf Course would be realistic.

Mr. Larry Smith asked the time of the site walk. It was noted to be 9:00am.

Mr. Murphy asked if the Board could grant a variance to a non-owner of this property.

Attorney Donovan stated the Colanton's have a binding agreement with UNH and they have the right to ask for the variance. All is okay. There is no deed yet.

Mr. Hayden stated he will be seeking waivers of:

Article IV, 2, b. Scale of map (1" - 60') to 1" to 100' for the sheet for submittal. Detail area with buildings will be 1" to 60' as the ordinance directs.

Article IV, 2, h. Topography at (2') intervals to 5' intervals.

Article IV, 2, j. HIS map requires (2') contour, go to order 1; SCS symbolization.

Article V. 9 (2') intervals on topography to 5' as previously requested.

Article VI. 9, 1. 200' buffer requirement, seeking relief as the Town Bound is only 35'

Mr. Hayden stated he did not show the landscaping because of the waiver requests. He stated he plans to plant evergreens on the open area between Mr. DiProfio and the green. Beyond the cutting limit, the rest will all stay trees, it is natural woods and will stay that way.

Mr. Hayden stated if they feel the items do not apply, they would not ask for waivers.

Mr. Dow asked if the sale is contingent on the approval of this plan.

Attorney Donovan stated absolutely not.

Mr. Dow asked if there were any other easements on the property.

Attorney Donovan stated not on this side.

Mr. Smith asked if there is any land in East Kingston that has 200 ft. to the Town line.

Mr. Hayden stated maybe way down back. It is physically impossible to get dredge and fill over the lower 1/3 of the property.

Mr. DiProfio stated there is room to place more holes if they cross the wetlands.

Mr. Larry Smith stated there is not much room to play with out there.

Mr. Dow noted that the total tract is 93.4 acres, and asked how many are wet.

Mr. Hayden stated they need to do more surveying, and when the figures become available, they can become a part of the permanent record.

Mr. DiProfio asked the Chairman if the Board would be ruling on all the waivers.

If yes, Mr. DiProfio restated the ordinance was written for privacy and the Board voted for the 200 ft. buffer, this is the reason for the letter. He stated if they walked the property and there is not a 200 ft. buffer, and they have become aware of it from the letter from Kingston Planning Board, he is requesting to protect his rights to privacy and give freedom from Saturday morning noise. He said the green is less than 90 feet away. Kingston has afforded an opportunity to respond likewise in Kingston. He requested the Board take into account why the Planning Board exists and why the regulations were written in the first place.

Attorney Donovan said he doesn't think the adoption of the 200 ft. was applied to 35 ft. of frontage in the Town. He can't believe that was intended to apply to this. In effect, the piece can't ever be able to be used and then raised the problem of inverse condemnation, taking for private purposes.

Mr. Dow stated that not every piece of ground is allowed to be used, ie, wetlands. It may only be used for open space.

Attorney Donovan countered, this is not wetland.

Mr. DiProfio said he wouldn't tell Mr. Colanton it can't be used for specific uses, only that the ordinance is there to be complied with.

Mr. DiProfio said in context with the whole picture, Kingston expects a reasonable accommodation.

Mr. Dow asked if the Board would be comfortable with three waivers to act upon now; scales, contours and HIS mapping.

Mr. Keddy motioned to grant the three waivers as outlined above.

Mr. Cacciatore second.

This was based that everything else is excessive.

The motion carried unanimously.

Mr. Dow said the Board could continue the hearing until after the site walk to act on the buffer. He asked if there were any way the golf course could exist without the 200 ft. buffer.

Mrs. George motioned to approve the waiver of Section 9.

Mr. Keddy second.

The motion carried unanimously.

Mr. Keddy stated the site walk was not going to resolve the situation. He said he appreciated Mr. DiProfio's concern and he has seen the same type of problem.

Attorney Donovan stated maybe it would be a good idea for the walk.

Mrs. George said she has a problem with no buffer. She then stated that farms also begin work early. She expressed concern that this Board can make Kingston hold to our 200 ft. buffer requirement.

Mr. DiProfio stated they are only asking to protect their privacy.

Mr. Dow said if all of the development occurs within the Town of Kingston, this town may lose all of its rights.

Mr. DiProfio stated that 35 ft. is better than 0. He cited the letter from Kingston to invite them to the hearing; and said he is only asking the Board to comment appropriately.

Mr. Keddy stated the first nine holes equal 1/3 or 37 acres involved.

There are plans in the future to add nine more holes and this will take up the rest of the upland in the rear.

Mr. Smith asked what Mr. DiProfio wants.

Mr. DiProfio stated he was going to Kingston. He said he has no rights there, and he was never notified by Kingston.

Mr. Dow noted the RSA and the notification to abutters.

Mr. Keddy motioned to continue this decision process on the 200 ft. buffer until after the site walk and attendance at the July 6th meeting in Kingston and then to send a letter of concerns to Kingston.

Mr. Cacciatore second.

The motion passed unanimously.

The Public Hearing was adjourned for continuance at 9:10pm.

The Public Hearing for Edward & Nancy Smith was opened at 9:11pm.

Mr. Smith read the application and the Board viewed the plan.

Mr. Smith asked if perc test was done on lot 6-1-42.

Mr. Ed Smith said yes, Joseph Conti did the test.

Mr. Ed Smith stated the proposed buyer is thinking of building back in the woods.

It was stated the easement will be strictly a maintenance easement.

An abutter Jackson Casey was present and stated he has no objection to the basic plan. He was curious about the land donation.

Mr. Ed Smith said it would be deeded to the Town and the Selectmen would have to accept it.

Abutter Thomas Larson was present and made no comment.

Mrs. George motioned to approve the Subdivision of Edward & Nancy Smith, drawn by Parker Survey 4891-5 on May 1993.

Mr. Cacciatore second.

The motion passed unanimously.

The mylar was signed and paper copies were distributed.

The Public Hearing for Edward and Nancy Smith closed at 9:25pm.

Public Hearing for Site Plan Review for Brian and Carol Stout was opened at 9:33pm.

Mr. Smith read from the application.

Mrs. Stout presented a copy of the recorded subdivision plan.

Mr. Stout stated he basically worked for himself, acquaintances. He has no shingle, no collision or insurance work is done. He said he is involved with his own project at this time. He would be fixing rust problems, no full blown things, yet. He stated he works in a small area with one car in and one car out. He does one job at a time. There are no signs, he works by word of mouth. He does work for his buddies and relatives only.

Mr. Smith asked about the parking lot.

Mr. Stout stated he could accommodate six cars and parking is no problem. He has one in the garage. There is one bay and one bay is used for equipment. This is a two car garage.

Mr. Keddy asked Mr. Stout his trade and if he is working now.

Mr. Stout responded he is a pipefitter by trade, and is presently unemployed. He only is working on his own car now.

Mr. Keddy asked how many days per week he plans to work.

Mr. Stout stated there is no set schedule, one or five day weeks. There is no pattern. He buys supplies as needed and there is no stock.

Mr. Keddy asked when he is working at his primary trade, when does he anticipate doing this type of work.

Mr. Stout stated he will be working nights and Saturdays.

Mr. Keddy asked about chemicals and how they are disposed of.

Mr. Stout stated they are 99% used. He keeps any overage, there would be sanding dust on the floors and that is swept up and put into the garbage.

Mr. Keddy asked if there were any complaints about night noise.

Mr. Stout said not that he is aware of.

Mr. Smith asked how he came to apply to the Board.

Mrs. Stout stated that she heard from her friends, that Harvey Purington complained that they were operating a business without the license. The Stouts agreed that they want to do everything above board.

Mr. Cacciatore stated that he made an investigation and suggested that the Stout's come to the Planning Board.

Mrs. George asked about the dust and the lead.

Mrs. Stout said there is a well in front of their yard and they would be concerned about their own children's health. She stated they have checked out two places for disposal if necessary and this would not pose a problem.

Dr. Marston said he has no problem.

Mr. Smith asked for stipulations.

Mrs. George asked where the operations took place.

Mr. Stout stated inside, sometimes the doors are open, mostly they remain closed. He stated work would normally cease by 6 or 7pm.

Mr. Keddy asked that safety data sheets be obtained and they be placed on file for the Fire Dept.

Mrs. Stout stated she did an inventory list of supplies and equipment, this was nominal.

Mr. Stout stated that he did not want to be illegal.

Mr. Dow noted the uneven patterns, the number of cars per month/per season.

Mr. Stout stated he would only be doing three or four cars per year, basically during the summer.

Mrs. George motioned to approve the Site Plan Review. There was no need shown for conditions per prior testimony and as the business is conducted right now.

Dr. Marston second.

The motion passed unanimously.

The Site Plan Review for Carol & Brian Stout closed at 9:48pm.

Mr. Smith said he received a list of licensed personnel for the Board's use. They are land surveyors. This will be placed in the Planning Board file.

Technical Bulletins were given to each member.

Corrections to the May minutes: change pg. 2 - referring to "adventure", should have been "venture".



Mrs. George motioned to accept the minutes of May 1993 as corrected.

Dr. Marston second.

The motion passed unanimously.

There was a brief update on Mr. Hart and Mr. Cook regarding 10 North Road. Nothing has begun in earnest at this time. Still negotiating.

The meeting was adjourned at 9:37pm.

Respectfully submitted,

Nancy J. Marden, Administrative Assistant

Typed: June 25, 1993