



PLANNING BOARD
TOWN OF EAST KINGSTON
New Hampshire

2013-2014
Joe Cacciatore, *Chairman*
Dr. Robert Marston, *Vice Chairman*

MINUTES
Regular Meeting 20 June 2013
7:00 pm

AGENDA:

- ◆ **Call to Order**
- ◆ **Continued Public Hearing** for Amended Site Plan Review for Bradley Jamieson for 14 Powwow River Road, MBL 10-03-09.
- ◆ **Continued Public Hearing** for Subdivision Review for proposed 4-lot subdivision at Woldridge Lane, MBL 03-02-03 for Maplevale Builders, LLC.

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

ROLL CALL: Mrs. White called the roll.

Members Present: Vice Chairman Dr. R. Marston, Mr. J. Bath, Mr. C. Delling and Ex-Officio Mr. R. Morales. Chairman Mr. J. Cacciatore was not in attendance.

Advisors present: Rockingham Planning Commission (RPC) Senior Planner Ms. J. LaBranche, East Kingston Building Inspector Mr. J. Moreau, Assistant Building Inspector Mr. T. Welch, East Kingston Fire Chief Mr. E. Warren, and East Kingston Conservation Commission Chairman Dennis Quintal..

Others Present: Applicant's representative Terry Trudel, Attorney for the applicant Mr. Jeff Burrell; Mr. Jamieson's representative Mr. Dennis Quintal, Licensed Professional Engineer.

Board Business

Minutes

Dr. Marston asked for a motion on the May minutes.

MOTION: Mr. Morales **MOVED** to approve the May minutes as presented; Mr. Bath seconded.
The motion passed unanimously.

Continued Public Hearing for Amended Site Plan Review for Bradley Jamieson for 14 Powwow River Road, MBL 10-03-09.

Vice Chairman Marston opened this continued public hearing and invited Mr. Jamieson's representative, Mr. Dennis Quintal to review the amended site plan for the Board.

Since the last Board meeting, Mr. Quintal had provided drainage analyses for the existing buildings, and projected drainage calculations to include the proposed new buildings, consisting of an equipment shed, auxiliary greenhouse, and sunroom. He described how the run-off would flow into various areas of the property, but had not received feedback from the Town Engineer. Mrs. White reported Mr. Stephens had been unable to complete the analysis of the new stormwater analysis plan for the site in the short amount of time he had to review the paperwork before this meeting. This report will be forthcoming for the July meeting.

Ms. LaBranche asked if Mr. Jamieson had provided information requested by the Board at the last meeting; Mrs. White noted she had not received this information from Mr. Jamieson.

Mr. Bath noted the measurement on the plan for the septic system was 65' from the pond and asked what the standard measurement should be. Mr. Quintal noted the town follows the state statute which is 75' from the leaching system. The system is a raised system since the water table is high in that area.

Mr. Bath asked what paperwork Mr. Jamieson had not supplied to the Board. Ms. LaBranche reported at the last meeting, Mr. Jamieson had stated the septic designer/installer had documented the septic system was installed the proper distance from the wetlands on the adjacent property and had agreed to provide that documentation to the Board for verification. It was noted the septic system had been installed before Mr. Jamieson came to the Board for site plan review. If the septic system was an incorrect setback from the wetlands, Mr. Jamieson would need to get a variance or move the septic system.

Another outstanding issue was the report from the DES in regards to the well permit. Although you cannot hold up an application for state permits, there are already tenants in the building, and the Board had never seen a copy of the well permit, which shows the limitations. He was to provide a list of all the current/ approved tenants, and how many workers in each of the businesses so the Board could have a total number of active users on the system to compare if it complies with the well permit. As more tenants are added, uses are changed and the numbers will change each time. Totals of users on the well should be calculated as tenants change. Periodic testing of the water on an annual basis is required should the numbers exceed certain amounts.

Ms. LaBranche noted the stormwater calculations report was excellent. Mr. Quintal verified that he would be creating a stormwater management operations and maintenance agreement for the site much the same as he did for the Masone property.

Mr. Morales noted, looking at the May minutes, it appears points 2, 3, 4, 5, and 6 still need to be verified.

2. Verification statement of removal of first floor toilet in building B (the winery building).
3. A copy of the NHDES Subsurface Disposal permit, and an evaluation of the capacity of the system for each prospective tenant when a change-in-use application is made.
4. Sufficient documentation to verify the number of full-time employees complies with the NHDES approval for the drinking water support well.
5. Pre- and post-inspection of the bio-retention area by the Town Engineer.
6. Location and boundary inspections of the proposed sunroom, equipment shed/workshop and greenhouse by the Building Inspector.

For number 2, Ms. LaBranche noted Mr. Jamieson verbally stated this had been done, but it had not been verified by anyone from the Town. The Building Inspector will verify the toilet was removed and capped off. He will also conduct an inspection to make sure the new bathrooms, one on the ground floor and one on the second floor of the winery building, were tied in to the septic system.

Mr. Morales noted that left 3, 4, 5, and 6 still outstanding. Ms. LaBranche verified that numbers 3 and 4 were the items necessary to complete the application. Number 5 will be a condition of approval, and the Town Engineer should prepare a pre- and post- construction schedule for the stormwater management infrastructure and new buildings. The Board might also want to consider having the Town Engineer check the stormwater systems after a large rainfall to ensure the system was working properly. Mr. Morales asked if they should attach milestones to the request. As it could take the applicant some time to get all these outstanding items together, and Ms. LaBranche noted the Board could request a voluntary extension from the applicant's representative pending review of the materials the Planning Board has requested. As Mr. Jamieson's representative, Mr. Quintal agreed that amount of time was reasonable and agreed, stating the extension would actually be in favor of the applicant.

MOTION: Mr. Bath **MOVED** to request a 90-day extension for review of the amended site plan application for Bradley Jamieson for 14 Powwow River Road, MBL 10-03-09; Mr. Morales seconded; the vote was unanimous. Mr. Quintal agreed to the request.

Ms. LaBranche noted that Mr. Jamieson had appeared before the Zoning Board to request a Equitable Waiver of Dimensional Requirements for the setbacks for his greenhouse on May 23rd. Mr. Jamieson did receive this waiver, and Mrs. White provided a copy of the minutes and decision of the Zoning Board hearing to the members of the Planning Board and for the file.

Mr. Quintal stated they would also like to be continued to the July meeting as the Town Engineer's report should be received by then, and Mr. Jamieson may have some of the other documentation ready for the Board by then.

Mrs. White noted there was a business in the process of submitting an application for the greenhouse, using the downstairs office space below the web designer for sales, and needed to know if she could accept the application. After discussion, the Board came to the conclusion it would be best not to accept any more applications for tenants at 14 Powwow River Road until all outstanding requirements were met.

MOTION: Mr. Morales **MOVED** to not to accept any more applications for tenants at 14 Powwow River Road until all outstanding requirements have been met. Mr. Bath seconded; the vote passed unanimously.

Ms. LaBranche stated she would write a list of the outstanding issues, and have a meeting with the applicant to review the issues.

Mrs. White will call the prospective tenant and let him know not to submit his application at this time. Mr. Jamieson will be notified by certified and regular mail the Board has taken this action.

There was discussion on whether or not there had been an occupancy permit issued for the greenhouse. It was determined that there had not been an inspection to-date. Since the greenhouse was going to be leased and customers would be in and out of the building, an inspection would need to be conducted by the Building Inspector. This inspection will not be conducted until the pending requirements have been met.

Dr. Marston opened the floor to abutters; there being none, Dr. Marston closed the floor to abutters.

There being no further discussion, Dr. Marston asked for a MOTION.

MOTION: Mr. Bath **MOVED** to continued this Amended Site Plan Review for Bradley Jamieson for 14 Powwow River Road until July 18. Mr. Morales seconded; the vote passed unanimously.

Dr. Marston closed the public hearing. Mr. Quintal thanked the Board for their time.

Public Hearing for a proposed 4-lot subdivision at Woldridge Lane (MBL 03-02-03).

Dr. Marston opened this public hearing and invited Mr. Trudel, SEC Associates, to explain the proposal.

Mr. Trudel explained that since the last meeting with the Board, the builder had changed his proposal from a 4-lot to a 3-lot subdivision. They have shortened the length of the proposed cul-de-sac by 50', and have submitted a waiver for the additional 322' cul-de-sac length. This substantially changed distances to the houses, thereby satisfying the life safety concerns of the Fire Chief. They have provided individual distances to the Fire Chief. Mr. Moreau asked if the plan entailed leaving the existing cul-de-sac as it was; Mr. Trudel answered yes.

They have changed from a closed drainage system to an open drainage system, and have eliminated the curbing and replaced it with swales, culverts and a retention pond to satisfy the concerns of the road agent.

Mr. Trudel addressed the comments from the Town Engineer.

- On sheet 3, they will show the grading and drainage on the plan, show the metes and bounds, and add the acreage for the entire parcel.
- One sheet 6, they will add the roadway stations, a sign at the intersection, label all unlabeled items, and clarify the end treatment for the proposed outlet pipe.
- They will update the drainage notations on page 1.

Dr. Marston noted when the cul-de-sac distances were changed from 800' to 1,000', at that time the Board had had considerable discussion on whether or not to change the distances. This developer is asking for an extension of 322'; would the next one ask for 1,500' ? He opined that once the Town sets rules, they should abide by them and not haphazardly grant waivers.

Chief Warren noted he had had an issue with four items on the plan:

1. Multiple road lengths listed on the plan. After meeting with Mr. Zilch, that issue was corrected.
2. Cul-de-sac length. With the change from 4 lots to 3 lots, the distances to two of the proposed houses were actually closer to the existing hydrant than some of the existing houses. From a life safety point of view, there would be no issues.
3. In creating a new subdivision, for another aspect there is a 2,600' foot rule. In changing to a 3-lot subdivision, that rule is clearly met.
4. Mr. Warren opined that in looking at the variance criteria, the one stating *strict conformity would pose an unnecessary hardship to the applicant* is the one the Board needs to look at. What is the hardship? When the original development was built, they knew that was as far as they could go. What has changed from then to now? If the waiver is not granted, what is the unnecessary hardship to the developer?

From Mr. Warren's standpoint as Fire Chief, all fire/life safety issues have been met.

Mr. Morales asked Mr. Warren if the 1,000' was still a good rule of thumb or should it be changed? Mr. Warren opined it should stay at the length of 1,000'.

Mr. Moreau asked if the Town had denied anyone in the past development on that piece of property, and if so, could the Town be then setting themselves up for a lawsuit by the previous developer if they granted the variance? It was determined to the best of the Board's knowledge, no one had come to them for a development on this piece of property.

Mr. Burrell noted there were multiple waivers given for the Clark Road subdivision, they were only asking for one waiver. Mr. Moreau replied that was a cluster development with its own rules and ordinances, and all waivers requested for that development had not been granted.

Mr. Moreau asked Mr. Burrell how long the developer has owned the property and what the hardship would be? *Mr. Burrell answered the developer had owned the property for approximately one year and the hardship is that there is no other way to develop this piece of property.* Mr. Moreau noted he knew what the rules and ordinances were when he purchased the property. *Mr. Burrell noted that this part of the property is served by a ROW.*

Abutter, Ken Kuster, 16 Powwow River Road, asked if he could be recognized and offer some information regarding the ROW. Dr. Marston recognized Mr. Kuster and allowed him to speak. Mr. Kuster noted the previous owner had a ROW for access to his wood lot; he knew himself this went back as far as 1995.

Ms. LaBranche asked who holds ownership of the ROW and the detention basin? *Mr. Trudel answered the detention basin would belong to the Town.* Mr. Morales noted the area Ms. LaBranche was referring to was the Town easement. Ms. LaBranche noted the detention pond was rather large and deep, and asked if they were planning on installing a fence around it. *Mr. Trudel stated they had not entertained the idea of a fence.*

She also asked if the bounds and setback from the wetlands were marked; *Mr. Trudel noted the bounds were, but not the setbacks.* She reminded Mr. Trudel that granite bounds were required at the corners of all the

lots. *Mr. Trudel asked what if the place the bound was to be located was under 3' of water?* Mr. Quintal noted a monument could be placed on the property line on dry ground with bearing distance to the actual location marked on it.

Ms. LaBranche reminded Mr. Trudel that septic system leach field needed to be at least 75' from the wetlands. Mr. Moreau noted 75' guidelines were the same as the state.

Ms. LaBranche reminded the Board of their procedure for granting of waivers.

The Planning Board may only grant a waiver if the board finds, by majority vote, that:

- (a) Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations; or
- (b) Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

Mr. Warren reviewed that the current owner had owned the property just over a year, and at the time of his purchase he was aware of the ordinances and the 1,000 foot maximum distance for cul-de-sacs. In his mind this waiver request did not meet the requirements for an unnecessary hardship.

Mr. Burrell noted that at the time the applicant purchased the property, he thought he had more options as the lot was over 20 acres. That ended up not being the case. This application meets all requirements of the ordinances with the exception of the length of the cul-de-sac, and because of that fact, strict adherence would pose a hardship to the developer.

Mr. Morales reiterated Mr. Warren's statement the applicant was aware of the ordinances when he purchased the property. *Mr. Burrell stated the Board had found hardship with the Clark Subdivision.* Mr. Morales noted it was a different type of subdivision, the developer had lived on the property for several years, and lots had been eliminated from the original application because of the slopes. *Mr. Burrell stated the developer had thought the ROW meant the property was to be developed, otherwise why would it be there?* Mr. Morales answered that the prospective developer should have asked if the property could be developed and the Board would have said no as there was no access out. *Mr. Burrell stated they thought if they met the life safety aspect, which they have, that they would be granted the variance.*

Dr. Marston opened the floor to abutters.

Ken Kuster, 16 Powwow River Road provided some comments. He had never had a problem with water until the house across the street and the houses on Woldridge lane were built. He was concerned with the supply/consumption of well water in the area as several neighbors had to drill new wells. Because of inadequate water supply in the summer months, he and his wife had to go to a Laundromat and did not do laundry at their house. Another neighbor has a horse barn, which if filled to capacity, could deplete the water supply further. He is very concerned as it appears there is not an adequate water supply to fulfill the needs of the existing houses, as well as the extra houses the developer plans to build.

He also noted that although the applicant had supplied distances to the houses which satisfied the Fire Chief, there was a large, flat area to the rear of the proposed center lot which would be ideal for a barn, which would not be easily accessible for fire fighting equipment.

Mr. Kuster offered some information regarding dead-end streets, noting cul-de-sac lengths of 300' were recommended by most fire officials, although most towns allowed 1,000'. He was also concerned about lengthening the road in regards to fire protection. In a situation of power outages and downed trees across the road denying access, the longer length of road could impede emergency personnel to easily make it down the road in the instance of a fire or medical emergency.

And there is the question of whether or not property values would decrease, which is one of the deciding factors for a variance. Mr. Kuster noted the existing cul-de-sac is an attraction for prospective buyers as it entices traffic to slow down and provides a safe place for children to play.

In closing, Mr. Kuster noted to meet the hardship requirements of the variance, the hardship needs to be associated with a unique situation and in his opinion, the developer has not met the definition of hardship.

Mr. Kuster thanked the Board for their time; Dr. Marston closed the floor to abutters.

Dr. Marston asked for a motion on the waiver.

MOTION: Mr. Bath **MOVED** the Planning Board grant the waiver to extend the cul-de-sac to a length of 1,322' for the 3-lot subdivision at Woldridge Lane (MBL 03-02-03). There was no second to the motion; the motion died.

The Board had conferred and ascertained they would need to take jurisdiction, and another motion to come to a decision.

Dr. Marston asked for a motion to take jurisdiction.

MOTION: Mr. Bath **MOVED** the Planning Board take jurisdiction of the 3-lot subdivision at Woldridge Lane (MBL 03-02-03). Mr. Morales seconded; the motion passed unanimously.

Dr. Marston asked for a motion on the waiver.

MOTION: Mr. Bath **MOVED** the Planning Board *deny* the waiver to extend the cul-de-sac to a length of 1,322' for the 3-lot subdivision at Woldridge Lane (MBL 03-02-03), citing that the applicant had not determined an unnecessary hardship exists as the property was purchased knowing there was a 1,000 foot maximum length for cul-de-sacs, concern with well water supply, and life safety issues in the event the road became impassable and there being no alternative exit from the subdivision. Mr. Morales seconded; the vote was unanimous.

Voting was as follows: Dr. Marston - aye; Mr. Bath - aye; Mr. Delling - aye; Mr. Morales - aye.

Dr. Marston continued this public hearing.

ADJOURNMENT

MOTION: Mr. Morales **MOVED** the Planning Board adjourn, Mr. Bath seconded.

Dr. Marston closed the meeting at 9:05 pm. The next Planning Board meeting will be on July 18.

Respectfully submitted,

Barbara White

Barbara A. White
Planning Board Secretary

Dr. Marston
Vice Chairman

Minutes approved August 15, 2013