



## UNAPPROVED

### PLANNING BOARD TOWN OF EAST KINGSTON NEW HAMPSHIRE

2007-2008  
*James Roby Day, Jr., Chairman*  
*Catherine Ellen Belcher, Vice Chairman*

#### MINUTES (Regular Meeting of 21 June 2007)

#### AGENDA:

7:00PM - **Board Business**

7:15PM - **Information/Discussion**

8:03PM - **Adjournment**

**CALL TO ORDER:** Chairman Day called the regular meeting of the East Kingston Planning Board to order at 7:00PM.

**ROLL CALL:** Mrs. White called the roll.

**Members present** – Vice-Chairman CE Belcher; Mr. JR Day, Chairman; Dr. RA Marston; Mr. RA Smith, Sr.; and Mr. R Caron, ex-officio.

Mr. Day noted that both Fire Chief Mazur and Mr. Sullivan were absent; Mr. Sullivan was under the weather.

**Alternate members present** –Mr. RF Morales.

**Advisors present** – Mr. Eric S. Steltzer, Planner, Rockingham Planning Commission (RPC); Mr. RR Donald, Building Inspector; and Mr. LK Smith, Conservation Commission Chairman.

**Voting members** –Chairman Day noted there was a full Board for this meeting.

#### BOARD BUSINESS

Mr. Day went over the handouts to the Board.

- A report on the Status of Conservation Easements for the Town of East Kingston as of June 15, 2007.
- An early draft of the Master Plan by Dr. Jill Robinson, with Mr. Day's comments.
- A sheet of legal notice and abutters notices expenses.

Mr. Morales asked if what he had was the most recent copy of the Master Plan. Mr. Day explained that he had a previous version, with some of his comments, and that he had distributed this evening the latest version by Dr. Robinson. Mr. Day asked him to peruse both versions.

**Mr. Jeff Walker.** Mr. Walker expressed his disappointment in not being able to make it to the meeting. Mr. Day explained that since he mostly worked from dawn to dusk, it would be nearly impossible for him to make one of our meetings. Mr. Day would interview him at his convenience and report back to the Board.

**Larry Smith.** Mr. Day announced that Mr. Larry Smith, Conservation Committee Chairman, had received the *James Hayden Award* for his accomplishments in conservation at the last RPC meeting. This award is quite prestigious and has only been given out one time before, in 2003. The Board members extended congratulations to Mr. Smith.

The James Hayden Award is meant to recognize those who have made significant contributions to their community or the region in planning and natural resource conservation. James Hayden worked for the Soil Conservation Service as a district conservationist for Rockingham County for many years, and was instrumental in the development of the County Soils Survey and in wetland conservation, and aquifer and shoreline protection. He contributed to the development of many of the essential tools that most towns still use today in planning for growth and development. He promoted the use of soils mapping in community site planning and the natural resource lecture series, which is still held every year to inform and educate local planning officials. Hayden was also an RPC commissioner representative for Newfields, NH. His role as a commissioner provided the RPC staff with the opportunity to work closely with Hayden and take advantage of his knowledge and skill. After Hayden died in 1994, the commission established the James Hayden Award.

**RPC Representative.** Mr. Day announced that Mr. LK Smith would not accept appointment to another term as an RPC Commissioner when his present term expires. It is a four-year term, and it is the Board's responsibility to recommend someone to the Selectmen.

**Kingston Project.** Mr. Day introduced Mr. Gregsak of Gregsak Engineering, to the Board. Also present was Mr. Peter Shribman, the owner of the property. Mr. Gregsak explained the Cooper's Grove subdivision was an 18-lot subdivision in Kingston, with 2½ acres of land located in East Kingston that would not be developed but only used for the purpose of calculating density, and noted that the East Kingston portion of the property was to be included in the open space.

Mr. Day explained that the Board was required to consider the plans since part of the property is in East Kingston, and the statute calls for East Kingston to sign the approved plan.

Mr. Steltzer explained that in discussion with Glenn Greenwood, RPC Assistant Director, it was ascertained that the East Kingston portion of this land would only be used for density calculations and be put into open space, and as no development would be taking place on the property, it would be difficult to take jurisdiction. The RPC's recommendation is for the Planning Board make a motion to allow the Chairman to sign the mylar pages to be recorded. The endorsement block could state that it was for record purposes only and that no review by the Planning Board is necessary.

Mr. Day reminded the Board of the Greystone development in which the shoe was on the other foot; most of the property was in East Kingston, with a small portion located in Kingston. Kingston did not hold a site plan review, but had made the same caveats as suggested here, and signed the mylar.

Mr. Donald stated he thought it prudent there be some documentation stating that the land not be developed, and Mr. RA Smith agreed there needed to be some way to ensure there would be no development on the East Kingston property.

Mr. Day explained to Mr. Gregsak that the Town would need a set of the final plans for their files.

Mr. LK Smith stated that there had been some problems with that piece of property in the past with camping and fires.

Mr. Day asked what pages would be recorded, and Mr. Gregsak replied that the cover sheet, and pages 4 through 8 would be recorded. He would include a notation to that effect on the cover page.

Mr. Steltzer pointed out an error on page 4 in respect to an acreage amount, and Mr. Gregsak agreed to eliminate the erroneous numbers.

Mr. Day asked that #5 on the cover sheet be reworded to read, "*No improvements or development will be proposed within the limits of the Town of East Kingston*", and that a signature block be added for the Planning Board Chairman. Mr. Gregsak agreed to make the changes.

Mr. LK Smith noted the information indicated that the shoreline was the property boundary, but brought to Mr. Gregsak's attention that that may not always be the case, depending on the individual landowner's deed; in some instances, the property line could extend to the center of the water body.

Mr. Day entertained a motion.

**MOTION:** Mrs. Belcher **MOVED** that based on the plan presented, the Planning Board accept the proposal of Mr. Gregsak for Cooper's Grove, with the addition of the notation on the cover sheet that there would be no improvements or development within the East Kingston portion of the subdivision, and a signature block for the Chairman's signature be added. Mr. Caron seconded, and the motion carried unanimously.

Mr. Gregsak and Mr. Shribman thanked the Board for their time.

**Minutes.** Mr. Day entertained a motion to approve the 17 May 07 minutes. Mr. Morales submitted one change.

**MOTION:** Mr. Morales **MOVED** the Planning Board approve the 17 May 07 minutes with the change. Mr. Caron seconded, and the motion passed unanimously.

Mrs. Belcher stated that in reading those minutes, it reminded her that she had spoken to Dennis Quintal in regard to the Fred Ford storage unit plan. He had asked her if they were all set, and she had replied that all he needed was to submit an updated set of plans with the information for the new storage units included on it. He replied that there was no information

on the present plan regarding the make-up of the particular storage units and/or the company supplying them or the materials which they were made of. It only included the measurements of the setbacks and the sizes of the storage units; therefore he questioned the need for submitting an updated set of plans. Based on that information, she thought it a waste of time and money to submit plans that would show no change.

Mr. Caron thought he had seen information on the type of storage units on the cover sheet, and Mr. Morales thought he had seen it also. Mr. Morales stated what Mr. Ford was now suggesting was very different from what had been originally proposed. The original plan was to set metal structures onto gravel-covered dirt, and the new plan required a slab.

Mr. RA Smith offered that Mr. Ford had upgraded to what he thought would conform better to the Town Center District.

Mr. Morales stated they needed an updated plan showing the footprint of the slab.

Mr. Day asked Mrs. White if she had received any updated information from Mr. Ford, and Mrs. White deferred to Mr. Donald, Building Inspector. Mr. Donald stated he had a Building Permit Application from Mr. Ford on his desk at the present time, with a company brochure attached. Mr. Ford had ascertained he would begin building sometime in July.

Mr. Donald wanted to know if he should hold up the building permit until the Board received the updated plan. Mr. Day stated that Mr. Donald and Mrs. White should speak to Mr. Ford and let him know since there had been a substantive change, the Board needed something to that effect.

Mr. RA Smith wanted to know why the Board was discussing this, as the 17 May minutes stated that Mr. Ford would provide the Planning Board with an updated drawing of the site, including notations for the changes in specifications of building materials for the storage units, and obtain the required building permits from the Building Inspector. Mr. Day explained the nature of Mrs. Belcher's discussion with Mr. Quintal, and the need to make the requirements clear to Mr. Quintal.

Mrs. White would contact Mr. Quintal to let him know that even though the measurements are the same, there has been a change and a new set of plans needs to be submitted; the foundation should be represented. Mrs. Belcher stated she would be happy to speak to him if he should have further questions pertaining to their discussion.

**Master Plan Agricultural Section.** Mr. Day asked the Board to review Dr. Robinson's 16 pages, as well as his comments, for discussion at the June meeting.

**Tower Antenna in Paul Masone's Industrial Park.** Mr. Day had received information from a Verizon representative with their intent to install an antenna on the cell tower in the Industrial Park. Cingular's present antenna on the pole is a flush-mounted antenna as per the conditions of approval. Verizon's plan calls for a triangular-shaped antenna which is not flush-mounted. The Verizon people had asked Mr. Day what the Planning Board needed from them to install the antenna, and Mr. Day stated he would broach the question to the Board. The provision for more antennas is there, but the original approval calls for a flush-mounted antenna. The conditional approval states that they need to notify the Board in writing and provide a copy of the lease agreement.

Mr. Morales asked if there was any requirement under that ordinance that they needed to continue to have public hearings every time a carrier wanted to install an antenna, or did the one time satisfy it.

Mr. RA Smith stated they would need to have another building on the ground to go with the antenna, and Mr. Morales stated that that fact was understood that anytime there was a new carrier, there would need to be a structure to go with it.

Mr. Donald inquired if Verizon could sign the building permit application for the ground structure, as the conditions of approval stated that the owner of the property needed to sign the Building permit. Mr. Day stated that Mr. Masone needed to sign the Building permit.

Mrs. White will compose a memo to the Verizon representative and Mr. Masone stating that they do not need to come before the Planning Board, but they need to submit to the Planning Board a copy of the lease agreements with Mr. Masone for both the ground structure and the antenna; they will need to submit plans for the ground structure with the Building Permit Application to the Building Inspector; and that Mr. Masone, as the property owner, will need to sign the Building Permit Application.

Mrs. Belcher abstained from any discussion in regard to the cell tower in East Kingston, as she is currently involved in another cell tower decision. As Mrs. Belcher recused herself from this discussion, Mr. Day appointed Mr. Morales as a voting member for the motion.

**MOTION:** Mr. Day **MOVED** the Board inform Verizon and Mr. Masone that as per the conditions of approval as discussed for the cell tower in the industrial park, the property owner needed to sign the Building Permit Application; a set of plans for the structure is required to be submitted to the Building Inspector with the Building Permit Application; and two lease agreements are required to be submitted to the Planning Board, one for the ground structure and one for the antenna. Mr. Caron seconded, and the motion passed unanimously.

**Septic Setbacks.** Mr. Day turned the floor over to Mrs. Belcher. Mrs. Belcher explained that at the last ZBA meeting, there had been a question of measurement for a septic system, which had constituted an hour-long discussion without any distinct resolution.

In determining whether a septic setback has been met, the East Kingston ordinance indicates it is the septic boundary, and the state regulations measures from the chamber and not any overlay. The argument was made that part of the overlay is the system. The Board did not have a standard as to whether the boundary was measured from the chamber, the pipe, or from the field. And if the field, just what constituted the field; the edge of the receiving layer? Mr. Donald stated that he normally measures from the square determined to be the leach field.

Mrs. Belcher read the zoning ordinance VII.D.6, which states: *“Septic system leach field boundaries shall be located more than 20 feet away from any property boundary, 100 feet from any surface water, 75 feet from existing or proposed private wells, and 125 feet from existing or proposed community well.”*

It was her view that perhaps the Planning Board should fine-tune the ordinance language as to the exact position of where the measurement was to begin and end. At present, it is not clear. Mr. Day asked if she and Mr. Donald could work on rewording that portion of the ordinance to make it clearer so there would be no confusion in the future. They agreed to do so, and would submit their recommendation to the Board.

Mr. Morales stated they could also run into problems with the Town Center District, as the lots are non-conforming and new septic systems could be necessary. Mrs. Belcher and Mr. Donald agreed to include run-off in their proposal.

**Joann Brandt’s Fire Pond.** Mr. Day inquired of the Board if there was a way of revisiting the conditional approval decision that had been made previously regarding Joann Brandt’s subdivision and installation of a fire pond. The subdivision regulation has been changed (08-06) since the time that decision was made, and Mrs. Brandt’s subdivision is only two lots and would now be exempt from the fire pond condition.

Subdivision Regulation VII.S. reads: *“Any new subdivision creating two new lots shall be exempt from the requirement to provide fire protection...” Any further subdivision of either of the two, newly-created lots shall necessitate the installation of an approved fire protection source in accordance with current ordinance and regulation requirements.”*

Mrs. Belcher offered that it would require a public hearing to revisit an approved application, and would necessitate a fee for legal noticing and abutter notification. The Board agreed this was the proper procedure to follow.

The Board agreed to notify Mrs. Brandt that there is now the option available to her. Through a new public hearing, she could request the Board to amend the conditions of approval for her subdivision and delete the fire pond requirement based on the revised ordinance. Mr. Day would inform Mrs. Brandt of her option; she could decide what she would like to do.

**Work Projects for Town Meeting.** Mr. Day reviewed there was one item, refining the septic definitions, and asked if anyone had any others.

Both Mrs. Belcher and Mr. Morales thought the Board should focus on the Master Plan, and address any other concerns they encountered as they came to them. Board members agreed.

**Noticing Costs.** Mr. Day stated that the Secretary has been wrestling with noticing costs and trying to make sure the most cost-effective methods are being used.

Mr. Caron inquired what the 15% was, and Mrs. White stated it constituted administrative costs to cover the cost of copying, paper, envelopes, and her time. Mr. Morales asked if we were charging enough to cover the costs. Mr. Day suggested going through the ordinances and regulations to make sure the numbers were adequate. Mr. Day stated that in

a like situation, a Mr. Charles O'Leary was asked to accept a temporary appointment as Commissioner of the Department of Transportation (DOT) to address its financial problems. It was discovered that the department was not charging what was needed to cover costs.

Mr. Day stated that there were fees sprinkled throughout the regulations and ordinances, and on several forms, and suggested the Board go through and make sure everything is adequate. Mrs. White will also check for charges mentioned on specific forms. Mr. Morales suggested that it should state "actual costs" wherever possible, which would not necessitate a change of a number each time costs rose.

Mrs. Belcher asked if the fee structure had not been given over by the Planning Board to the Selectmen? It was determined that had been done with some fees, but not the legal noticing and abutter fees they were discussing.

**July Agenda.** Mr. Day announced that the only item on the agenda for July might be the library. The Building Inspector had already received the beginnings of a plan set for the library. Mr. Donald reported that the test pits for the septic system had been dug 2 weeks ago. The Chairman of the Selectmen has directed the Building Inspector not to issue the building permit until the foundation is completed and the septic design is received.

Mr. Morales reported the Selectmen needed to sign the Building Permit, as it was Town-owned land and a Town-owned building; Mr. LK Smith agreed. Mrs. Belcher did not remember the Police Department coming before the Planning Board. Mr. Day said he distinctly remembered they did, and Mr. LK Smith agreed.

Mr. Day stated that he and Mrs. White had looked for the file, and were not successful in locating it. Mr. Caron stated he thought it was perhaps 3 years ago. Mrs. LK Smith offered that it was before it was included as a warrant article. Mrs. White stated she had not gone back that far, but would widen her search to include that far back in time.

Mr. Day noted that in all reality, the Library Committee did not have to come before the Planning Board for a site plan review. They could build their building on the property line if they so wished, since as a Town Building, they were exempt from the setbacks. Mr. Donald offered that even so, they *were* required to comply with the life safety codes and the building codes. Mr. LK Smith stated that they would need to comply with the State septic setbacks, as well.

Mr. Caron disagreed, stating they would need to come before the Planning Board. Mr. Day rebutted that no municipal entity was required to come before the Planning Board.

Mr. Caron quoted **674.54: Governmental Land Uses**, as his reasoning that they *did* need to come before the Planning Board, and Mr. Morales agreed.

- I. *In this section, "governmental use" means a use, construction, or development of land owned or occupied, or proposed to be owned or occupied, by the state, university system, or by a county, town, city, school district, or village district, or any of their agents, for any public purpose which is statutorily or traditionally governmental in nature.*
- II. *The state, university system, county, town, city, school district, or village district shall give written notification for the governing body and Planning Board, if such exists, of a municipality of any proposed governmental use of property within its jurisdiction, which constitutes a substantial change in use or a substantial new use. Written notification shall contain plans, specifications, explanation of proposed changes available at the time, a statement of the governmental nature of the use as set forth in paragraph I, and a proposed construction schedule....*

Mr. Day argued that they were not obligated to hold a public hearing, but *were* obligated to notify the Board. Mr. RA Smith said that when the school was putting on their addition, and when they filled up the pond, they came before the Planning Board. And they also came to the Planning Board when they wanted to build their parking lot. Mr. Day agreed that they did. Mr. Morales agreed also, but stated that they had said they were going to build it anyway.

Mr. Caron reported he had posed the question in a seminar he had attended, and 674.54 was the answer he had received. They did not have to pay fees, but did need to come to the Planning Board.

Mr. Day stated he had never understood a municipal entity having to have a public hearing. Notification is one thing, a public hearing is another thing altogether.

Mr. Caron read another part of 674.45: *A representative of the governmental entity which provided notice shall be available to present the plans, specifications, and construction schedule, and to provide explanations. The government body or planning board may issue non-binding written comments relative to conformity or non-conformity of the proposal with normally applicable land use regulations to the sponsor of the governmental use within 30 days after the hearing.*

Mrs. Belcher reiterated the word *non-binding*, which means the Planning Board could suggest, but their recommendations were not required to be adhered to.

After much discussion it was suggested that Mr. Day ask LGC what their take was on the issue, and the Board agreed that should be done.

**Targeted Block Grant (TBG).** Mr. Day had spoken to Glenn Greenwood in regard to the next Targeted Block Grant, and Mr. Greenwood promised the paperwork within two weeks. Mr. Day suggested the Board submit it for a CIP update, as it had been 10 years since it was last updated. Mrs. Belcher stated that the ordinances were only as good as the Master Plan and the CIP. The Board agreed Mr. Day should submit the TBG for the CIP update.

**Salt Storage Area.** Mr. Donald asked what was being done about a salt storage area, and Mr. Day replied that money was being put into a capital reserve fund each year, and they were still looking for land. Mr. Morales thought it needed to be a town-owned piece of property, and Mrs. Belcher stated that it could be rented from another town. Mr. Morales stated that it would be confusing to figure out what portion was used in a rental situation. At the present time the road agent, Mr. Rossi, happens to be the manager and has the needed supplies in his back yard.

**ADJOURNMENT:**

**MOTION:** Dr. Marston **MOVED** the Planning Board adjourn. Mr. Caron seconded, and the motion carried unanimously at 8:37 pm.

Respectfully submitted,

Barbara A. White  
Recording Secretary

J. Roby Day.  
Chairman

Minutes approved July 19, 2007