



PLANNING BOARD
TOWN OF EAST KINGSTON
New Hampshire

2018-2019
Joe Cacciatore, *Chairman*
Dr. Robert Marston, *Vice Chairman*

MINUTES
Regular Meeting 21 June 2018
7:00 pm

AGENDA:

- ◆ Call to Order
- ◆ **Continued Public Hearing** - Home Occupation at 96 North Road (MBL 15-03-17) – Keith Hart for a home office and storage of trucks and equipment. PB HO18-01

Board Business.

- RPC Contract
- Discussion regarding home occupation application process for grandfathered, non-conforming uses

CALL TO ORDER: This meeting of the East Kingston Planning Board was called to order at 7:01 pm by Chairman Cacciatore.

Members Present: Chairman Joe Cacciatore, Vice Chairman Dr. Robert Marston, Josh Bath, Bill Caswell, Tim Allen, and Ex-Officio Richard Poeleart.

Advisors Present: RPC Senior Planner Julie LaBranche, East Kingston Building Inspector John Moreau, East Kingston Assistant Building Inspector Tom Welch, and East Kingston Town Engineer Dennis Quintal.

Also present: Applicant Keith Hart Jr., Mr. & Mrs. Bodwell, abutters Mark Clark and Amy Anderson, and Mrs. Cecelia Hart, 299 Mill Road, Brentwood.

Minutes: Mr. Cacciatore asked for a motion to approve the May Minutes.

Mr. Bath made **MOVED** to approve the May Minutes; second by Dr. Marston with a unanimous vote.

Continued Public Hearing - Home Occupation at 96 North Road (MBL 15-03-17) - Keith Hart for a home office and storage of trucks and equipment. PB HO18-01

Mr. Allen explained the Board was charged with the task of assessing whether or not the proposed change of ownership of the property and the operation Mr. Hart was proposing for the location fit within the guidelines of the ordinance and RSAs for pre-existing grandfathered, non-conforming uses on a residential property and were not an expansion of use, which would not be allowed. This is why they were asking for more detailed information.

Ms. LaBranche explained they were trying to get a baseline of what the activities were for the transfer of use; the equipment that is there now and the equipment that is proposed to be there with the new use.

She also explained that the Board would give a recommendation to the Selectmen whether or not to grant the application for home occupation, perhaps with certain conditions. This Board does not make the final decision if the application is granted; that is up to the Selectmen.

Mr. Cacciatore asked Mr. Hart and Mr. Bodwell if they had the lists of the equipment the Board has asked for at the last meeting. They each provided a list and Mr. Bodwell had included copies of his insurance cards and listed the subcontractors he uses to do excavation for him.

The Board reviewed the lists and spent considerable time reviewing the two to try and make a comparison of whether or not Mr. Hart's vehicles and equipment would constitute an increase. Neither had presented any pictures of the vehicles or equipment. Mr. Cacciatore noted Mr. Hart had 10 pieces of equipment on his list and Mr. Bodwell had 14. He asked if the Board had any questions.

The Board also spent time asking questions regarding hours of operation, and just what a typical work day was for both Mr. Hart and Mr. Bodwell in order to get enough information to make an informed decision. Mr. Bodwell noted he did not store diesel fuel on the property and Mr. Hart stated he would not either.

Mr. Cacciatore opened the floor to abutters, asking them to state their name and address for the record.

Mark Clark, 2 Sanborn Road. Mr. Clark reported he has noticed there was an increased number of vehicles lately in Mr. Bodwell's yard and ascertained it was to make it look as though he and Mr. Hart had the same numbers of vehicles and equipment.

His opinion was that the Board needed more information about the vehicles and equipment in order to make an informed decision. He was also concerned about level of maintenance of the equipment and what would be done to prevent oil and other fluids from seeping onto the ground. Both Mr. Bodwell and Mr. Hart noted they use a service that takes the used oil away for recycling. Mr. Bodwell noted the garage has a concrete floor. Mr. Bodwell also noted he has a company (PM Maintenance) come to the property and provide needed services so equipment could be ready for use the following day. They come at 2 am to perform their service of the equipment. They obviously make little impact as there have never been any complaints about noise, etc. Mr. Hart stated for most instances, he services his own equipment (oil changes, etc.), but on occasion uses PM services.

Cecelia Hart, 299 Mill Road, Brentwood stated she was the applicant's mother and rents to him at his current location in Newton. She stated he was very organized and meticulous about his property and his equipment and is diligent in maintaining both. She showed the Board pictures of some of Mr. Hart's vehicles.

Emily Anderson, 46 South Road asked what the proposed hours of operation would be as opposed to what they are now. Both Mr. Bodwell and Mr. Hart noted approximately the same working hours, with the exceptions of emergency situations. Mr. Hart stated he usually leaves at 5-6 am in the morning to get to a job. Mr. Bodwell stated his hours are approximately the same.

Ms. LaBranche noted the Board needed more detail written down in order to make a knowledgeable decision. Nothing in the past has been documented, so a narrative of how they perform their day-to-day activities from both parties would be very helpful, along with how they handle their waste oil. What company would be taking it and where and how you would be storing it if you keep it on site. The Board requested pictures of the vehicles and various pieces of equipment with registrations, the inside of the garage and the outside storage area.

Mr. Allen explained that the burden of proof to explain how the operations were similar enough to warrant a recommendation to the Selectmen was on the applicants, Mr. Hart and Mr. Bodwell, not the Planning Board. It makes the Board's job easier the more details they have.

Mr. Allen noted the Board cannot make decisions based on opinions; they are guided by ordinances and state statutes. RSA 674 states "*Well established policy of zoning law is to carefully limit enlargement and extension of nonconforming uses, and to reduce them to conformity as completely and rapidly as possible.*"

That being said, nonconforming grandfathered uses are extremely powerful and can carry forward if there is not a substantially different use. Mr. Allen is having a hard time comparing Bodwell’s septic business to Mr. Hart’s excavation business without more information.

The Board also asked Mr. Bodwell to make a sketch of the property showing where the house and other buildings are located, the driveway, and approximate area where vehicles and equipment are parked/stored and where materials are stockpiled. Mrs. White will supply him with a copy of the plot plan from the town maps to use.

Ms. LaBranche also noted that it would be much easier if the Board could perform a site walk to answer some of the questions they had about the containment area and the garage floor, and where the vehicles and equipment are presently stored for example. Mr. Bodwell still was not agreeable to a site visit at this time.

Mr. Cacciatore asked for a motion.

Mr. Bath **MOVED** to continue the public hearing for Home Occupation at 96 North Road (MBL 15-03-17) until July 19; second by Mr. Allen with unanimous approval.

Mr. Hart and Mr. Bodwell will be sent a list of additional items and questions the Board needs. Mrs. White asked if they could return the information before the next meeting so she could distribute to the Board and they could review before the meeting. This will make the meeting continue at a faster pace.

Board Business

- Mr. Poeleart announced he had a presentation to make. The Pound School would no longer be known as the Pound School, but the Robert “Doc” Marston Meeting Room. Mr. Poeleart presented the plaque which will be placed prominently in the room. Everyone applauded and congratulated Dr. Marson. Pictures were taken of Dr. Marston and the Planning Board and will be published in the newspaper.



- Alternate position – Mr. Cacciatore introduced Emily Anderson who has expressed an interest in becoming an alternate on the Planning Board. Mrs. White will send a letter of recommendation to the Selectmen. The Board welcomed her.
- Renewal of the RPC Contract – The Board reviewed copies of the proposed contract for the coming year between the RPC and the Planning Board for Circuit Rider Services. Mrs. White noted there was an increase of \$336; Mr. Cacciatore stated there was enough in the budget to cover the increase and asked for a motion.

Mr. Bath **MOVED** to accept the contract for Circuit Rider services and recommend to the Selectmen to sign the contract; second by Mr. Allen with unanimous approval.

- Light Industrial Park – Mr. Quintal presented an existing conditions plan of the light industrial park which he had been working on for the Board. He distributed copies to the Board members, along with a list of tenants in the buildings and a list of the issues that had been previously identified. He explained items on the plan, noting the areas of disturbed wetlands.

He showed the areas of infringement and stated that disturbed areas of wetlands could be remediated by enlarging wetlands in another area as opposed to trying to return those particular impacted areas to their original condition. He reported that he found one building to be larger than it appeared on the original site plan. He also included a list of issues he has identified.

Mr. Quintal discussed the Board's mandate for a berm and was concerned if it was constructed as stated in the conditions of approval, it would end up ponding water and not doing the job the Board desired. He suggested a berm with a catch basin would be more beneficial; the Board agreed that sounded like it would do what they intended as opposed to just a berm. Mr. Quintal will speak to Mr. Masone and bring a design to present to the Board.

Mr. Quintal addressed the underground oil tanks and Mr. Masone has indicated to him he had permits for them; he will need to present copies of those permits to the Board.

There was discussion if there needed to be a community well; Mr. Quintal noted they did not have the number of people to qualify for that to be necessary.

The Board discussed the need for another site walk to compare it with the plan Mr. Quintal presented. They can identify any other items they see that need to be addressed. Thursday July 12 at 8:00 am was decided upon for the site walk. Mr. Quintal will notify Mr. Masone of the site walk date and time.

Mr. Quintal asked that the Board compile a list of specific tasks Mr. Masone needs to accomplish after they complete their site walk. Then an amended site plan can be produced and recorded.

Mrs. White will send a copy of the discussion from the minutes and the decision for ACV Enviro to the members for review. She will also call the Fire Chief to see if he wants to attend.

- Discussion of the Home Occupation application for Grandfathered, non-conforming uses is tabled until a future meeting.

Adjournment

MOTION: Dr. Marston **MOVED** the Planning Board adjourn; Mr. Bath seconded.

Mr. Cacciatore closed the meeting at 9:20 pm.

The next Planning Board meeting will be on July 19.

Respectfully submitted,

Barbara White

Planning Board Secretary

Joseph Cacciatore

Chairman

Minutes approved July 19, 2018