

July 08, 1993

East Kingston Board of Adjustment

Attending: John V. Daly, Chairman; David Ciardelli, Richard Smith and Stewart Aronson, Alt.

The Meeting was called to order at 7:35 pm by Mr. Daly.

Chairman Daly welcomed Stewart Aronson as an Alternate Member to this Board.

Chairman Daly notified all in attendance that this was a Public Meeting called because of two motions for rehearing that were filed by persons grieved over the previous decisions made at the last two Public Hearings; namely for Francis Colanton and Timothy Bodwell. The Board will review and discuss the contents of each motion this evening and determine the status of each one individually.

Mr. Daly also stated that these motions would not be taken in any particular order, but simply to determine the granting/denial of a rehearing. Each rehearing must be granted based upon new evidence submitted or evidence of Board error.

The first motion to be acted upon is that filed by John A. Ryan and Joseph E. Murphy, 144 Depot Road, East Kingston as it relates to the Public Hearing held for Francis Colanton. (1993-03)

Mr. Daly stated in reading the statements of Mr. Ryan and Mr. Murphy, he determined that they only argue each point of the case over, no new evidence was submitted. He asked for other ideas from the Board members.

Mr. Ciardelli agreed, he found nothing different in the motion from the last time we viewed this issue.

Mr. Daly stated the reasons for rehearing must be compelling ones.

Mr. Ciardelli noted statement #4 "Being open space as it always has been, a variance should not be required to remain open space."; and followed that there was a need for variance per the ordinance. It was felt that frontage of this property located in East Kingston is insufficient and any use would require a variance. This allegation is not true and it was previously discussed.

Mr. Smith noted statement #5 "Documents submitted to the chairman by abutters were not acknowledged or entered into the minutes of the hearing before a vote was taken."; and found that the information contained in the documents was not relevant to the issues that the East Kingston Board was viewing.

Mr. Daly asked Mr. DiProfio about his notification.

Mr. DiProfio (an abutter) stated that he has never been notified by the Town of Kingston. He stated he learned of the meetings through reading articles in the paper. He further stated that he was concerned that this Board did not think that this use would affect the value of his property.

Mr. Daly stated the Board determined that the use would not have any adverse negative effects.

Mr. DiProfio said he will solicit information from current East Kingston Golf Course residents/landowners regarding their opinions about abutting a golf course. He feels this is pertinent to the Kingston decision. He stated he feels this will be a negative impact to his property values. It is too close to his home and there is no way not to hear voices with the second tee being so close to the property lines. He prefers to see the second tee location changed.

Mr. Daly said the Board did not have sufficient evidence that there would be a negative impact.

Mr. Smith stated that lots abutting golf courses traditionally are priced higher.

Mr. DiProfio stated he would be surprised if neighbors do not report problems.

Mr. Ciardelli noted that Mr. Colanton was always cooperative in the past and there were no complaints with his procedures in the past. Mr. Ciardelli believes if conditions were to be placed on the site, he will comply.

Mr. Ciardelli did feel that the presentation by Attorney Donovan denoted that this was a "done deal" in Kingston. He stated he tried to factor in East Kingston's interest only.

Mr. DiProfio stated they (Mr. Colanton & Attorney Donovan) feel it is a done deal.

Mr. Ciardelli said he has a question about the diminution of value and that he assumed there would be none. He questioned if the Board should check to see if being next to a golf course does devalue property. Should the Board go back and look at this issue.

Mr. Daly stated that this was discussed and they determined that the value issue was not great.

Mr. Ciardelli stated he always made the assumption that living next to a golf course would be a value-added item, and yet, he never had evidence to support this assumption.

Mr. DiProfio stated that research would bear out that the assessor will assess at a higher value when location next to a golf course is the fact. He further requested the Board to rule as if he were not present, and stated the Planning Board must place all conditions on the plan to enforce the ordinance and give protection to surrounding properties.

Mr. Ciardelli asked if there was new evidence to allow them to have a new hearing.

Mr. Daly stated it must be decided to rehear if the Board has made an error.

Mr. Ciardelli motioned to deny the motion for rehearing as presented by Mr. Ryan and Mr. Murphy.

Mr. Smith second.

The motion carried 3 yes, 1 abstain (Mr. Aronson, for lack of knowledge concerning this issue).

Motion for rehearing of the Colanton Appeal was denied.

The second motion for rehearing to be acted upon is that filed by Attorney Robert B. Donovan, (1993-04) Holland, Donovan, Beckett & Hermans, 151 Water Street, Exeter, NH on behalf of Timothy Bodwell and Judith Bodwell as it relates to the Public Hearing held for Timothy Bodwell.

Mr. Bodwell was seeking to allow "two family dwelling on one parcel".

In the motion for rehearing Attorney Donovan argues that Mr. Bodwell meets all criteria for Special Exception dealing with two family dwellings.

Mr. Ciardelli asked if Mr. Bodwell is seeking a rehearing based on a procedural error at the first hearing. He further stated that he did not take exception to the minutes recording his previous comments on the definition of a two family dwelling. He felt then, as he does now that the ordinance addresses one residential building.

Mr. Ciardelli said Mr. Bodwell still does not meet the criteria of Section G 1.

Mr. Daly noted that Attorney Donovan's statement #12 "That the Bodwell lot having 300 feet of frontage on North Road and having an area of 8.36 acres meets the requirements of Section G (1), G (2), G (3), and G (4)." does not have anything to do with G (1). This addresses frontage requirements.

Mr. Ciardelli recalls this being discussed originally, and at that time the Board determined that Mr. Bodwell could not meet the requirements.

Mr. Daly noted that to grant a Special Exception, all requirements of the exceptions must be met.

Mr. Ciardelli recalled the statement by Mr. Bodwell addressing the placement of a roof over all three buildings and calling it one. Mr. Ciardelli feels that Mr. Bodwell fully understood the criteria and that he has two dwelling units on one parcel, and not a single residential dwelling.

Mr. Smith objected to the Building Inspector's suggesting that a roof connecting all three buildings could be done, even though Mr. Smith noted that Mr. Conti had later stated that he was only kidding.

Mr. Daly said he found no new evidence in the motion.

Mr. Ciardelli motioned to deny the motion for rehearing of the Timothy Bodwell appeal.

Mr. Smith second.

The Board voted 4-0 to deny the motion.

The Motion for rehearing of the Bodwell Appeal was denied.

The meeting was adjourned at 8:00pm.

Respectfully submitted,

Nancy J. Marden, Administrative Assistant

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