



PLANNING BOARD
TOWN OF EAST KINGSTON
NEW HAMPSHIRE

2007-2008
David F. Sullivan, Chairman
Edward Warren, Vice Chairman

MINUTES
(Public Hearing of 17 July 2008)

AGENDA:

- 7:00pm Call to Order and Approval of Minutes
7:05pm **Public Hearing** for a lot line adjustment between Norman and Carol Freeman (Honey Bee Trust), (MBL 09-08-01) 52 Main Street, East Kingston and Granite State Gas (18-01GSGC) (PB #08-05)
7:30pm Continued Board Business
Adjournment

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

ROLL CALL: Mrs. White called the roll.

Members present – Dr. RA Marston, Mr. RF Morales, Mr. DF Sullivan, Mr. E Warren, and Mr. D Pendell, ex-officio.

Alternate members present –Mr. J Cacciatore; Mr. R Forrest was not in attendance.

Advisors present – Mr. Eric S. Steltzer, Planner, Rockingham Planning Commission (RPC)
Mr. Sam Richard, Fire Chief
Mr. Ray Donald, Building Inspector

Voting members – Chairman Sullivan noted there was a full voting Board present.

Mr. Sullivan acknowledged Chief Richard's presence and welcomed the new Fire Chief to the meeting on behalf of the Board.

Minutes. Mr. Sullivan asked if there were any changes or corrections noted to the 19 June 2008 minutes. Mrs. White noted there were minor changes by Mr. Morales and Mr. Smith. Mr. Sullivan entertained a motion to approve the minutes.

MOTION: Mr. Morales **MOVED** the Planning Board approve the 19 June 2008 minutes with the minor changes noted. Mr. Warren seconded, and the motion passed unanimously.

HANDOUTS TO THE BOARD

- ***I-ZIP Application information*** – Included is a memo from Mrs. White detailing what she did to complete the application, a copy of the application narrative, and three letters of support.
- ***Notice from the Registry of Deeds.*** Starting July 1, 2008, there will be a separate \$25 L-Chip Surcharge due from applicants at the time of recording. Separate checks for this will need to be collected at the time of submission of plans.
- ***RPC Notice re: TBG*** – TBG (Targeted Block Grant) funds (matching) are available through the RPC for planning projects, training, etc. The deadline is August 1, 2008.
- ***Exeter River Local Advisory Committee*** – A presentation on “Protecting and Restoring the Exeter River through Innovative Science and Planning: Two New Studies” will be presented on Tuesday, July 22 at 7:00-8:30pm at the Hilton Auditorium, Rockingham County Nursing Home, North Road, Brentwood, NH.
- ***New Hampshire Estuaries Project (NHEP)*** – The NHEP is asking for project proposals that must address action plans in the NHEP Management Plan or comparable Main Watershed Plan. Grants require a matching 50%, and the deadline is September 25, 2008

PUBLIC HEARING FOR A LOT LINE ADJUSTMENT BETWEEN NORMAN AND CAROL FREEMAN (HONEY BEE TRUST), 52 MAIN STREET, EAST KINGSTON (MBL 09-08-01) AND GRANITE STATE GAS (18-01GSGC) (PB #08-05)

Mr. Sullivan opened the public hearing. Mr. and Mrs. Freeman were present; Mr. Erik Newman, representing Granite State Gas was not present. Mr. Steltzer offered to explain the application request in Mr. Newman’s absence.

Mr. Steltzer explained that the Freeman’s had been before the Board previously with a lot line adjustment (LLA) application and were denied due to the fact the original lots were non-conforming in size. The Planning Board denied the LLA, and that denial allowed them to appeal to the Zoning Board of Adjustment (ZBA) for a variance for relief regarding the expansion of the non-conforming lots. If granted, the variance would allow the Freeman’s to come back before the Planning Board and re-apply for the lot line adjustment. The ZBA did grant the variance and the Freeman’s are back before the Planning Board to re-apply for the lot line adjustment.

Mr. Steltzer recapped that they were discussing a small parcel of land the Gas Utility owns via Supreme Court action back in the 1960’s which was fenced in, and the installation of an above-ground valve at a later date outside of the land they own, but on another part of the easement. The intent of the lot line adjustment is to incorporate the second set of aboveground valves into a parcel owned by the Gas Company and to install a fence around both sets of valves for the sake of safety. Currently, only a chain and a padlock protect the second set of valves.

Mr. Donald offered that he was in attendance at the ZBA Hearing and it was the consensus of that Board that bounds needed to be identified and a fence with a padlock should be installed around the perimeter of the gas company’s aboveground infrastructure.

Mr. Steltzer stated that the plan before the Board was fairly straightforward and noted where the granite bounds were to be set. Although it did identify where the existing fence was located, it did not identify where the new fence was to be situated. Mr. Morales stated this could be included in the conditions of approval, but wondered if they shouldn't specify a timeframe by which the fence should be installed. It was Mr. Steltzer's recommendation that the proposed fence be noted on the plan.

Mr. Warren asked if they had license to set a timeframe within which the gas company needed to install the fence. Mr. Morales also noted that when the Board set conditions, sometimes those conditions are not completed in a timely manner or not completed at all and thought it would be good to set some sort of timeframe, especially for safety's sake.

Mr. Steltzer clarified that conditions that are put onto a plan in order for the mylar to be recorded do have to be met. This is strict and the mylar does come back before the Board to make sure the conditions have been met before the mylar is signed. The usually timeframe to meet the conditions is within a year, and if the conditions are not met within that timeframe, the applicant has to reapply and start the process all over again.

Mr. Newman arrived at 7:17pm, and apologized to the Board.

Mr. Newman stated that Easterly Surveying, the company that produced the plan, is contracted to put in the boundaries once the approval is complete.

There was Board discussion about when the fence should be installed, and it was decided that installation could not happen until the deeds were complete and recorded, since to install it before that would basically mean the fence was being installed on the Freeman's property and not Granite State's property. It was decided that within 30 days after the deeds are finalized would be a reasonable timeframe to put on that condition.

Mr. Sullivan entertained a motion to invoke jurisdiction.

MOTION: Mr. Morales **MOVED** the Planning Board invoke jurisdiction for the lot line adjustment between Norman and Carol Freeman (Honey Bee Trust), 52 Main Street and Granite State Gas, MBLs 09-08-01 and 18-01GSGC as presented by Mr. Erik Newman. Mr. Warren seconded, and the motion passed unanimously.

The floor was opened to abutters; there being none, the floor was closed.

Mr. Sullivan reviewed the proposed list of conditions.

1. The bounds will be shown on the plan and approved by the Building Inspector before the final mylar is to be signed.
2. The delineation of the new fence will be shown on the plan, and said fence will be installed within 30 days of the transfer of the deeds. This shall be approved by the Building Inspector before the final mylar is to be signed.
3. Final mylar, together with a full-sized and 11x17 copy of the final plan, to be submitted to the Planning Board for chairman signature and recording.
4. All outstanding or future fees and charges due to the Town in connection with the lot line adjustment, including but not limited to the reviews of Town Counsel, Town Engineer, RPC

Planner, Building Inspector, and Fire Department, and administrative costs incurred by the Town to be fully discharged.

Mr. Sullivan entertained a motion for conditional approval.

MOTION: Mr. Morales **MOVED** the Planning Board grant conditional approval for the lot line adjustment between Norman and Carol Freeman (Honey Bee Trust), 52 Main Street, East Kingston and Granite State Gas, MBLs 09-08-01 and 18-01GSGC to include the conditions that the granite bounds and the fence will be shown on the plan and shall be inspected by the Building Inspector before the mylar is signed, the fence will be erected within 30 days of the deed finalization, final copies of the plan shall be supplied to the Town, and all bills are to be paid. Mr. Warren seconded, and the motion passed unanimously.

Mr. Sullivan closed this public hearing.

Mr. Newman and the Freeman's thanked the Board for their time. The mylar will be reviewed and accepted at the next meeting. Mrs. White noted that the next meeting would be held on August 21.

BOARD BUSINESS

RPC Commissioner. Mrs. White reported that Mr. Warren was appointed RPC Commissioner by Selectmen on the recommendation of the Planning Board. The Board bestowed their congratulations to Mr. Warren.

Circuit Rider Contract. Mrs. White had checked on the Circuit Rider contract language and had ensured that it did state 12 meetings per year and 10 hours per month.

Forms Changes. Mrs. White provided a copy of the changed forms (Appendix A and B) and the corresponding checklists (Appendix F and G) for the Board to decide if they liked the way they looked. Although Mr. Steltzer had stated that forms changes did not need a public hearing, Mrs. White reminded the Board that these forms were in the book and therefore most likely did need to have a public hearing because of that fact. The Board liked the way Mrs. White had added the new information, and would go with those versions for the public hearings.

I-ZIP Grant. Mrs. White reported that when she had looked at the application, she realized that they were going to need help completing it, as it was quite confusing. Most of the information asked for needed to be gleaned from the Master Plan. She had contacted Glenn Greenwood at the RPC and he stated that they would be most happy to complete the application for the Planning Board. Mrs. White had written a letter to the Selectmen asking them for their endorsement, had contacted Diane Hartley from the Workforce Housing Coalition for their endorsement, and asked Mr. Dennis Quintal for a letter of endorsement. She received all the letters and forwarded to Jill Robinson from the RPC who put together the narrative, completed the application and forwarded the application and supporting documentation to the appropriate party by the deadline. Mrs. White reported we should know within two weeks of the deadline if we are to receive the grant.

Ordinance and Regulation Book. Mrs. White is contacting Conservation, Zoning and the Building Inspector to see if there are any updates in regulations that need to be reflected in the regulations and ordinances before the book is updated and published.

Home Occupation Discussion. Mrs. White had provided Board members with a list of all the home occupations in East Kingston, with ones that were in existence before 1989 and grandfathered highlighted. The second page she had provided the Board was information on home occupations from other towns.

She reported that the Selectmen's Office had noted that even if they raised the rates for all of them, the Town would not receive much extra revenue. They were all good citizens and taxpayers in the Town. The specific home occupations the Board had been talking about, the ones that were more like businesses that should be located in the commercial and industrial areas, were the grandfathered businesses and as such were entitled to stay in business until they no longer wanted to engage in that business or moved, since the home occupation goes with the homeowner and not the property.

Mr. Morales stated that home occupations can cause extra services on the Town, such as extra trash services, and therefore may pay their taxes but not necessarily their fair share. Most of the businesses in question, if they had to rent or buy a building, could pay thousands of dollars a year, so a raise in rates would still save them a lot of money. His suggestion is to raise the fees for those who have huge businesses; they would still be saving money even with a higher rate. Mr. Morales questioned how the other towns defined their home occupations, as it was his opinion that East Kingston defined theirs so loosely that almost anything could be allowed.

Mr. Donald acknowledged that the Selectmen had grandfathered those businesses already in existence in 1989. They had set reasonable rates so they would have people comply and the Selectmen would have knowledge of what was going on in Town, and they did not want to make the rates so cost-prohibitive that people would sneak around and do things illegally. He acknowledged that the fees might need to be changed, but cautioned that the Board should take heed not to set the prices so high that it would force home occupations "go underground".

Mr. Warren agreed with Mr. Donald that setting the rates too high could tend to make people not want to comply with the home occupation regulations; he would like to know what home occupations were in Town.

There was some discussion on how to set the rates, and it was discussed it could be set based on the type of home occupation. Mr. Warren noted that he was on that list, and paid his home occupation fee each year even though his garage was inactive. He kept it active so he would not need to go through the paperwork again, but it did not generate any money and would be a hardship to pay a much higher fee each year for something that he did not use.

Mr. Warren did not think it would be appropriate to set fees based on the perceived amount of money a business was making by looking at what type of business it was or the traffic coming and going. These things were no real indicator of the actual money that was generated. He did not think it was appropriate to set fees based on what a person would pay should they rent a building elsewhere either.

Mr. Pendell stated he could see both sides. He knew taxes were going up and raising the rates could generate some more money for the Town. People were saving money by operating home occupations from their home rather than a storefront, and fees could be determined based on how much money the businesses made by looking at their businesses tax returns. Mr. Warren asked then if the following year that business did not make as much money, would the rate go down? Mr. Pendell stated if the rate was set taking into consideration how much money they generated from that business, then the rate would go down.

Mr. Warren agreed that perhaps the rates should be raised if they hadn't been in a long time, but did not agree that basing the rates on the type of business, or perceived volume was the correct way of going about it.

Mr. Morales asked that the Board give the home occupation question some serious consideration and come up with some strict criteria. He agreed that whatever was done had to be fair and equitable, and easy to administer.

Mr. Steltzer thought it important to look at the broader scale of things. The purpose of the Planning Board was to look at planning and zoning of the community and what the community wants to be. Fees the Planning Board has jurisdiction over issuing and changing are those regarding home occupation review. The Planning Board can only charge fees to recover their costs; it is not a program by which to generate additional revenue. The financial side of the Town is managed solely by the Board of Selectmen, and if the Board of Selectmen so chose to issue an increase of fees, that is their jurisdiction.

Mr. Morales stated that the Planning Board could recommend to the Board of Selectmen to raise the fees, and he realized that the Board of Selectmen had the final decision. He did not mean to give the impression that the Planning Board could set the fees, but noted they could send their recommendation to the Selectmen.

Chief Richard acknowledged he agreed with Mr. Warren in that he would rather know what was going on in Town in relation to businesses rather than have his men put in danger due to unknown substances stored in basements and garages. He did not agree with charging so much for the home occupation fees that people go "underground".

He did not think for the most part that the majority of home occupations put a burden on Town services, although he agreed there might be some that do. He suggested that perhaps the criteria could be based on the type of business rather than how much money the business generated.

Mr. Pendell suggested if the Planning Board was in agreement that something needed to be done with the fees, they could send a letter to the Selectmen asking them to review the home occupation fees. Mr. Cacciatore noted that rules were set when the home occupation ordinance was enacted, and those businesses on the grandfathered list would not be there if they had not conformed to the rules. Mr. Warren noted the Selectmen might decide that the fees do not need to be changed. Mr. Pendell noted that things change, as evidenced by the contemplation of an ordinance for wind turbines, and if rules are not in place, home occupations will come in at the current structure.

Mr. Warren asked if it would be appropriate to make a motion for the Planning Board to send a letter to the Selectmen asking them to look at the home occupation rates. Mr. Sullivan agreed.

Mr. Steltzer noted that memos between the Planning Board and the Selectmen should pertain to planning issues, and reminded the Board that if they were to send a letter to the Selectmen, they needed to be able to tie this need to a future vision for the Town to be within the realm of authority of the Planning Board.

He did not think this issue was an item to consider bringing to the Selectmen's attention as a Planning Board, but if they felt strongly about the issue, members of the Board as citizens of the Town individually would be the appropriate venue by which to approach the Selectmen, and not with a letter from the Planning Board.

Mr. Pendell stated that as a Selectmen, he disagreed with Mr. Steltzer. He stated, *“The reason I ran for Selectmen was that none of the departments talked to each other in Town. I sat through two meetings in one night and they all blamed one guy for something none of them got up and did anything about. I have gone to all the department meetings and have seen everybody and talked to everybody because I want everybody’s input as a Selectmen. Because I want to stop something that happened before I ran. So if somebody here has a suggestion, has an idea, or wants to talk about something, there is no problem with that department bringing it to the Selectmen.”*

Mr. Steltzer said he was not stating that communication between boards was not supposed to happen. He was reminding the Board that communication appropriate and pertinent to the mission of what a Planning Board is is what should be happening. If individual citizens wanted to tackle a subject that wasn’t under the jurisdiction of the Planning Board, he whole-heartedly agreed that they should be having communication with the Board of Selectmen.

Mr. Warren stated it was now in the minutes and the Selectmen could note it and discuss it. Or Mr. Pendell could bring it up at the next Selectmen’s Meeting.

RPC Meeting. Mr. Warren reported he had attended an RPC meeting in Epping. The Town Hall where the meeting was held is around the same age as the East Kingston Town Hall, and they have cut their electricity bills by 2/3 and their oil bills by more than that by installing an Echo furnace system. There are solar panels in the ceiling and a generator in the basement that takes care of the heating. The unit can store energy for days and then utilize the stored energy. The entire unit, including new windows for the entire Town Hall cost \$60,000 and they expect to earn that money back within 16 months with the money they are saving on the utilities. They are willing to show the system to anyone who wants to see it. Even when you were in the room, you could not hear it running. Another topic of the meeting was SB342, the bill regarding inclusionary housing, which has been signed and is now official.

Mr. Steltzer commented that the unit Mr. Warren was referencing was an Echo Power System and utilizes co-generation. He explained that instead of having a heating boiler and drawing in electricity from a power plant, the system uses the excess heat from the heating boiler to produce electricity. Rather than having electricity which is 70% inefficient and an old boiler which could only be 40-50% efficient, they are combining the two to get a system which is 80-90% efficient. He encouraged everyone to go and take a look at it.

The RPC had applied for funding in collaboration with the Clean Air Pool Plan, Carbon Coalition, National Regional Planning Commission, and the New Hampshire Carbon Challenge among others, for \$100,000 grant from the New Hampshire Charitable Foundation to help communities form energy committees for energy planning. If there is interest within a town to be working on energy issues from a community standpoint, a portion of that money will be going to the RPC to help them.

Mr. Morales asked Mr. Steltzer if he was aware of a community in New Hampshire that was using alternative sources (wind turbine, geothermal, solar energy) and has formed their own utility company within the Town; being off the grid and selling the excess back to the power company. Mr. Steltzer answered that he had heard of that and that since the utility companies were partially de-regulated, it was still legal in the state for a municipality to create their own electric utility if they should so choose. They are still connected to the grid, but do sell the excess back to the power grid.

He foresees that towns would not necessarily want to create their own utility company unless they have a great wind resource or a big methane plant where they could produce over 100kw of power. He envisions that through net metering, towns could have a solar array on top of their Town Hall or a wind turbine on their hill and as long as it is less than 100kw, they could generate the power to do that without creating a utility company.

Mr. Morales noted that there are even shingles and siding that are solar-voltaic and can absorb solar energy and convert it into electricity.

Mr. Steltzer noted that House Bill 1628, which was signed just last week, allows a rebate to people who build residential electric power systems after July 1. If approved, they could get up to \$6,000 back towards their construction costs.

Pound School. Mr. Pendell said they should have the August meeting at the Pound School since there are two air conditioners there; they won't have to be so hot. Mrs. White explained that there is air-conditioning in the Town Hall, but it is not on because she cannot hear the members speak, members cannot hear each other speak, and the recorder cannot pick up the voices. Mr. Pendell fervently insisted that next month's meeting be held at the Pound School since it would be cooler.

Mr. Sullivan asked if the Board members had a problem meeting at the Pound School, and they did not. Mrs. White will make sure the Freeman's are contacted about the change in meeting place for next month's meeting.

Next Month's Agenda. There is nothing on the agenda so far for the August meeting, but the deadline is not until August 4.

Mr. Sullivan asked if there was any other Board discussion. There was none and a motion to adjourn was entertained.

ADJOURNMENT:

MOTION: Dr. Marston **MOVED** the Planning Board adjourn. Mr. Warren seconded, and the motion carried unanimously at 8:15 pm.

Respectfully submitted,

Barbara A. White
Recording Secretary

DF Sullivan
Chairman

There were only slight grammatical changes to the 19 June minutes.
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Minutes approved September 18, 2008