



**PLANNING BOARD
TOWN OF EAST KINGSTON
NEW HAMPSHIRE**

20042005
*James Roby Day, Jr., Chairman
Richard A. Smith, Sr., Vice Chairman*

MINUTES
(Work Session August 12, 2004)

CALL TO ORDER: Chairman Day called the work session of the East Kingston Planning Board to order at 7:00M.

ROLL CALL: Helen Lonek called the roll.

Members present – Mrs. **CE** Belcher, Chairman JR Day, Vice Chairman RA Smith, Sr.,
Alternate members present – , Mr. JD Burton, Mr. J. Fillio, Mr. EV Madej

BOARD BUSINESS:

Minutes –

MOTION: Mr. R. Morales **MOVED** the minutes of the June 17, 2004 regular meeting be approved as presented. Mrs. Belcher seconded and the motion carried unanimously.

MOTION: Mr. R. Morasles **MOVED** the minutes of the July 15, 2004 regular meeting be approved with corrections. Mr. Smith seconded and the motion carried unanimously.

Judge Perkin's Order Re: Postle. Mr. Day noted the Judge's Order from the Postle suit. He stated that this was a very instructive piece of work for the Board because the Judge took the position that conditional approvals aren't really approvals. He added that the clock for an appeal to a decision from the Planning Board starts ticking when a signature is put to a mylar and it is recorded. He stated that the date of the recording is the date of the final approval. Mrs. Belcher added that that makes the final approval date after the date of the actual decision. Mr. Day stated that the Judge reaffirmed that the State has authority over driveways and that the Board cannot tell people making driveway cuts into State roads how to configure those driveways. He added that the Judge also stated that the Board did not violate RSA 91A.

Letter from Larry Edelman re: Mower Hearing. Mr. Day stated that he would be out of town for the Friday, October 1, 2004 hearing and asked the Board for volunteers who are familiar with the information to attend this hearing. Mrs. Belcher stated that she thought she would be able to do it. Mr. Day stated that Mr. Edelman is happy that there has been a delay in this because of the suit between Mower and MBR, the contractor, which the Town of East Kingston is not involved with. Mr. Day asked that between this meeting and next week's regular meeting, someone come up to volunteer.

Master Plan Housing Chapter. Discussion ensued regarding multi-family unit and it was concluded that multi-family consist of three or more units. Mrs. Belcher stated that, therefore, East Kingston does not have any multi-family housing.

Mr. Day stated that the State defines "affordable housing" as being something that doesn't take up more than 1/3 of a family's income. He added that the Board would not have to create a whole new ordinance to do that. He added that the cluster housing ordinance could be taken into account. Mr. Burton pointed out that one option is to make affordable housing only in the village area.

Mr. Day stated that the town has open space developments, but asked where is the actual open space because it can't be seen. He noted that last May, the Board changed the ordinance to push the houses back 200 feet from the road to give a little space. Mrs. Belcher suggested this land be called "open/undisturbed space".

Discussion ensued regarding the tables in Ms. Carriel's draft of the Housing Chapter, which are different dates. Mrs. Belcher suggested putting in some language in the beginning of the chapter stating to please be cautious when comparing tables. Mr. Day stated that these tables should be used to see the "big picture". Mr. Burton stated that the State seems to expect the town to provide demographic data, background, projections as a basis for decisions. He added that it is there to provide backup. Mr. Day stated that the statistics are useful to compare towns.

Mr. Burton stated that the Chapter is supposed to be a guide to the development of the municipality to set down the best and most appropriate future development of the area to aid the Board in designing ordinances. Mr. Burton stated that things that are not intended to be done should not be put in the Chapter. Mrs. Belcher stated that is the Town is going to do the village concept, then the two-acre minimum has to be thrown out and soil-based data has to be looked at. Mr. Burton stated that the Land Use section has to translate the vision into physical terms.

Mr. Day stated that this is being done a little backwards. He added that the next step is the visioning plan, which will involve everyone in town. Mr. Day cautioned that there should not be too much weight put on what NROC can do for the town. He stated that NROC is a springboard to making ordinances and regulations and visioning point in the direction that the town wants it to. Mrs. Belcher noted the Amendment that was voted on at Town Meeting: "This provision shall be reviewed annually by the Planning Board to ascertain whether the balance between the number of standard dwelling units and elderly housing units continues to reflect the stated goals of the East Kingston Master Plan and the community's long-term planning intentions." She asked if that is something that should be covered in this Chapter as well as in future Chapters. She added that the ordinance clearly states that it is one of the Planning Board's duties to be sure that the elderly housing continues to reflect the goals. She recalled that at one point there was some discussion regarding the fact that the Board never wanted to allow the elderly housing populace to be greater than the conventional housing populace because of voting issues.

Mr. Day pointed out that there is one page with five stated Master Plan goals. He added that that is why the visioning effort is needed to flesh out goals to reflect what the town wants.

Mr. Burton explained what the Housing section is support to be. He noted Paragraph L of 672:2 III. He added that what the Board is statutorily required to do is to come up with a Master Plan to guide the development of the municipality, set down the best and most appropriate future development in the area, aid the Board in designing ordinances that result in preserving and enhancing the unique quality of life and culture of New Hampshire and to guide the Board in achieving smart growths, sound planning and wise resources. Mr. Day stated that the Board can make recommendations from the draft by Ms. Carriel as to what might be actions the Town would want to take.

Mr. Burton noted section 672:2 II (b): "A land use section on which all of the following section shall be based". He stated that the Town does not have a land use section in which to base the housing chapter on. He added that he feels the process is totally backwards. He added that no decision has been made on the land use section. He suggested following the statute and deciding what is wanted and what has to be done and then fill in all the optional chapters.

Mr. Day stated that the Master Plan was completed in 2000 and in order to keep it up to date it is being revised chapter by chapter. Mr. Day added that this particular revision was committed to over a year ago and it has been paid for already and the next thing that will be addressed is the visioning and goals. He added that because of NROC and public hearing schedule, it was put on the back burner.

Mr. Day stated that he thought Ms. Carriel's draft was well presented, but there are some holes. Mr. Smith noted #13 Development Density, he stated that he felt two-acre zoning is far superior to other towns in the area. He stated that they tried to build up the density in Stratham at one time because they had some land that was real good. He added that they went to one-acre zoning and the houses were too close.

Mr. Day stated starting at page 15, Ms. Carriel goes from a housing chapter topic to land use strategies, which he felt shouldn't be included in the housing chapter. He stated that she has included soil-based, lot size determination, two-family dwellings, a zoning ordinance addressing accessory apartments, multi-family housing and elderly age-restricted housing. He added that these are strategies that she suggests the Town look at to get to where it wants to go.

Mrs. Belcher stated that she felt that anyone who wanted to add an apartment should be allowed to. She added that there should be no problem with having elderly parents living in an apartment or other relatives. Mr. Morales stated that this could help with the affordable housing issue. Mrs. Belcher added that it might also help someone stay in their house longer if they have an apartment that can be rented to rent out the larger part.

Mr. Burton stated that other towns that deal with that issue have specific ordinances to deal with it so that every time someone wants to add an apartment, they don't have to go before the Board.

Mr. Day stated that the Board is in no position to hold a hearing on this matter in September. He recommended another work session in September. He stated that what needs to be focused on are the proposed recommendations. He went over Ms. Carriel's recommendations. He added that the second recommendation has been done by Ms. Carriel by incorporating the Regional Housing Needs Assessment and this will always be a part of the housing chapter and is statutorily required. Ms. Carriel's next recommendation is an amendment to allow multi-family developments. The next issue is the minimum lot size to be determined by soil types, which is another approach to zoning. Mr. Day stated that the next one is the accessory apartment issue.

Mr. Day stated the other potential recommendations are to amend the single-family cluster residential development ordinance to offer a bonus for providing X% of all proposed dwellings as affordable. He added that the Town could do that to offer a variety of options. Mr. Burton stated that it is not working in Exeter at all. He added that what happens is people buy, live in it for a year and then sell it. He stated that it is a total scam and are sometimes handed out by developers to friends and family.

Mr. Day stated that Ms. Carriel's second recommendation is to create a village or cluster development zoning district. Mr. Day suggested taking a defined area and calling it the "Village Zone". Mrs. Belcher stated that the Town already has little village areas with the new developments, including Maplevale. Mr. Burton stated that he believed the idea of the village concept goes a little further than just having smaller lot requirements. He added that it also is to become the center where most municipal functions and services are available, as well as small businesses. Mr. Day stated that if you look at the statute that describes the village approach to zoning, it involves multi-use zoning, commercial, residential and lot sizes that are driven by something other than just the two-acre cookie cutter approach. He stated that there is already a center of town, but within this center there is not the freedom to have multi-use zoning.

Mr. Burton stated that the center of the Town is not congregated friendly. Mr. Day stated that that was what Maplevale was supposed to do. Mr. Day noted that Ms. Carriel has also included the Town of Hollis' Open Space Plan Development Ordinance. He added that this is the default ordinance in Hollis, whereby if a developer comes in with a subdivision plan, it is first and foremost an open space development plan, that is the starting point. He added that any developer has to justify coming in with something other than an open space development plan. He stated that Dover does this as well.

Mr. Day noted his list of recommendations, which included the notion of taking the entire town and making it a conservation district overlay like there is a wetlands district overlay. He added that this would empower the Board to require whatever is decided within a conservation district. Mr. Day stated that Hollis has done this in sections. He is suggesting taking the whole town.

Mr. Day stated that his recommendation included a village plan alternative subdivision. He added that the village plan would permit multi-use, commercial and residential. He added that this would be in a very restricted area.

Mr. Day suggested another approach would be to create rural open space districts. He added that that approach has been used elsewhere in New Hampshire. Mr. Smith noted a town called Unity, New Hampshire in the mountains where someone just bought 300 acres and is planning on putting in 500 houses.

Mr. Smith stated he thought the single-family cluster was the way to go. Mr. Day stated that he has been impressed by the single-family cluster, residential development ordinance by its lack of use and it is unusable because of growth control. Mr. Day added that cluster housing is not an innovative land use, whereas elderly housing is.

Mr. Day stated the last recommendation was lot area and yard requirements. This zoning ordinance calls for two-family dwellings to have three-acre lots. He asked what the purpose of this is. He stated that that could be incorporated into a village zone. Mrs. Belcher suggested adding in-law apartments to the list. Mr. Day suggested that the next time the Board meets to discuss this, everyone bring their own list of suggestions. It was decided that this would be continued at the next meeting on August 19, 2004.

Mr. Day stated that what he is concerned about is the sprawl in town. He stated that if a village focus is offered enabling people to have apartments in their houses or duplexes or multi-use, commercial/residential, then the Board may succeed in concentrating some of the development in a way that fits in with the New England town center. He added that this is a part of a bigger scheme where outlying areas may have to be 50 acres.

Mr. Burton proposed moving things forward by stating that there seems to be agreement on pages 1-12 of the draft and suggested this was something Ms. Carriel could finalize. Mr. Day reminded about the disclaimer. He stated that the questions arise starting on page 13. Mr. Burton suggested taking out the description of current zoning from Section III and have a Section entitled "Current Zoning" so that there is a clear, separate section of what is to change.

Mr. Day stated that a hearing date will tentatively be scheduled for October with recommendations ready for the next regular meeting and a work session in September.

Mr. Day noted John Ratigan's letter as well as a letter to the Selectmen from Mr. Rich Poshpek from Jersey City, New Jersey. He stated that with regards to the Jersey City letter, has had told Debbie Gallant that he will give the Selectmen the Planning Board's opinion so that they can respond to it. With regard to the Ratigan letter, which was addressed to the Planning Board, will get a direct response from the Planning Board. Mr. Day stated that Mr. Ratigan refers directly to one article provision that states "permanent residents, 55 years or older". Mr. Day stated that he read through the ordinance to see if there was something that would point to an interpretation of the ordinance. He asked what is a permanent defined as. Discussion ensued regarding how a permanent resident is defined including voting or taxes or a number of days per year. Mr. Burton stated that for international tax purposes, you have to live somewhere for more than half the year, even one day more. Mr. Day stated that where you vote is your permanent address.

Mr. Smith stated that this is not considered to be assisted living. Mr. Day stated that New Hampshire distinguishes between assisted living and elderly housing. Mr. Day stated that the response will be that this is elderly housing for people 55 and over, not assisted living so it is presumed that there will be not need for live-in healthcare.

It was decided that Mr. Day would draft a letter using the arguments that this is elderly housing statutorily defined and it is not assisted living and it is the Board's assumption that residents in that house are 55 years of age or older. He would give it to the Selectmen for review.

ZBA Minutes: Mr. Day stated that he thought the ZBA made the right decision. Mrs. Belcher stated that there never was an intention for that property to house a year-round dwelling.

NHMA Response: Mr. Day stated that the NHMA response to Mr. Morales does not answer the question. Mr. Morales stated he gave them verbatim the proposed ordinance and told him what the intent was from the NROC committee. He added that he then came back and stated that there was nothing in the statute that required the Conservation Commission to review issues. Mr. Day stated that they are either ill-informed or the NROC people are overlooking something. Mr. Day stated that he is waiting for a response from Carolyn Russell. Mrs. Belcher stated that the Planning Board can use the Conservation Commission as an advisory board.

Mr. Burton explained that the only thing that seemed to be an issue was the language "shall be reviewed by the Conservation Commission". He stated that their point is that there is no empowerment of the Conservation Commission on its own to review a site plan. Mr. Morales stated that it was his understanding that there is no statutory requirement that the Conservation Commission is part of the checklist process.

Mr. Day stated that Mr. Tebo is now back to a cistern. He added that he has plans for both a cistern and sprinkler system. This means another plan revision.

Mr. Day stated that the Board is way ahead by about \$7,000 on the budget so funding a targeted block grant would be no problem at all this year. He suggested maybe spending on a visioning goal chapter. Mr. Day stated that the reason for this is Helen Lonek's salary. She has not been claiming the hours allocated for 20 hours per week.

Adjournment: The meeting was adjourned at 9:30 PM

Respectfully submitted,

Helen M. Lonek/
Recording Secretary

Approved by 8/19/04