

TOWN OF EAST KINGSTON, NH  
PLANNING BOARD MEETING MINUTES  
August 19, 1999

FILE

AGENDA

- 7:15 Site Plan Review/Subdivision/Home Occupation Amendments – Continued Public Hearing
- 7:30 Deb & Dave Whalen – Depot Road Subdivision – Discussion
- 7:35 Steve Amundsen/Bill Bartlett – North Road Site Plan Review - Discussion
- 7:45 East Kingston School District – 5 Andrews Lane Site Plan Review – Public Hearing
- 8:15 David Rohrdanz – 52 Burnt Swamp Road Home Occupation - Discussion

Members attending: Richard A. Smith Sr. - Chairman, Beverly A. Fillio, Dr. Robert Marston and Alternate Peter A. Riley.

Absent: Edward C. Johnson – Vice Chairman, Raymond R. Donald – Ex-officio, and Alternates David G. Morse and Robert Nigrello.

Others attending: Sarah Campbell – RPC, Lawrence K. Smith – Conservation Commission Chairman, Glenn P. Clark – Building Inspector, Alan Mazur – Fire Chief, Dennis Quintal - PE, Margaret Caulk, David Woodburn, Selectman John L. Fillio, Selectman Donald C. Andolina, Dave & Deb Whalen, School Board Members Richard Poelaert, Robert Caron, and Kevin Fitzgibbon, John Chagnon, PE, Jeff Nawrocki, PE, Steve Amundsen, Bill Bartlett, Mr. & Mrs. Dennis Lapham, David Rohrdanz, and other members of the public who did not address their concerns.

Chairman Smith called to order this August 19, 1999 public planning board meeting at 7:10 PM with the roll call. Noting the absence of members Raymond Donald and Edward Johnson, he then designated Alternate Peter Riley to participate in any voting matters before the board.

Minutes: The Board acknowledged a written request for July 17, 1999 minutes corrections submitted by Margaret Caulk. Noting that only one member present now was in attendance at that meeting, Chairman Smith ordered that the review of the minutes be postponed until more members could be present.

Correspondence: Chairman Smith informed the Board that he has received State driveway permits for properties located on Powwow River Road (Andrzejewski), and North Road (Bodwell) and a DES Sites Specific application for the Colanton property.

Site Plan Review Regulations – Sign Provisions – Continued Public Hearing: Chairman Smith opened the public hearing for amendments to the sign provisions in the Site Plan Review Regulations. This hearing is continued from July 17, 1999. The Board spent extensive time discussing and reviewing a comparison sheet for sign sizes in surrounding towns. They primarily focused on specific measurements for signs located in light industrial and commercial zones as well as how many signs allowed for each business and/or site. It was the consensus of many members that an 8 square foot sign, as provided for under Section VI.E.3.a, was not adequate signage for a business located in a commercial or light industrial district. It was also determined that if this measurement was increased, then the measurement provisions for multiple signs should also be increased. It was agreed that any reference to sign width be removed and that a maximum height should be included.

Members discussed implementing a sliding scale for multiple signs, (i.e. total square footage allowed: 32 sq. ft., for two signs each could measure 16 sq. ft.). They also talked about whether or not a header sign (address of businesses) would be included in the overall size permitted.

Discussion input from the Board of Selectmen included the agreement that 32 sq. ft. for one sign was appropriate but when considering 2 to 5 more signs there may need to be some distinguishment – maybe more categories. The primary use of a sign to show the business' location, most advertisement is done via newspapers, phonebook, flyers, etc.

Members hashed out different calculations for sign sizes and height restrictions.

MOTION: Dr. Marston motioned to amend Site Plan Review Regulation Section VI.E.3 a-e to reflect the sign measurement of 32 square feet for single-use locations, additional 20 square feet for each business, and a maximum sign height not to exceed 20 square feet. Mrs. Fillio seconded.

DISCUSSION: Members inquired if Dr. Marston wanted to include an additional 20 square feet for sign headers. He responded that the aforementioned measurements should suffice.

The motion carried 4-0.

**Dave & Deb Whalen – Depot Road Subdivision - Discussion:** Chairman Smith opened discussion with Dave & Deb Whalen of 131 Depot Road regarding the possibility of subdividing their land. Mr. Whalen informed the Board that he has reviewed the backlot provisions in the zoning book and feels he may be able to subdivide his land into two parcels. He noted that he had a total of 283 feet of frontage, where only 240 feet were needed. He stated that he also meets the lot size area required for both lots, a total of 5.66 acres. He is looking to create a 3.22-acre parcel out back with the remaining 2.11 acres to stay with the buildings.

Mr. Lawrence Smith, Conservation Commission Chairman, stated that he has walked the site and visited the existing road and culvert. The road does cross wetlands. It would need more gravel. He also said that the Whalen's need to have HISS mapping done on the new part of the subdivision to show it meets the ordinance.

The Whalen's were then advised to submit a formal subdivision application for formal Planning Board consideration.

**Steve Amundsen? Bill Bartlett – North Road Site Plan Review – Discussion:** Chairman Smith opened discussion at 8:12 PM with Steve Amundsen and Bill Bartlett regarding a change of use for property located at 5 North Road. The parcel in question currently houses an automotive repair shop. Mr. Amundsen and Mr. Bartlett are proposing the use be changed to the warehousing of printing presses.

Mr. Amundsen advised the Board that the scope of his business is to repair printing presses. He would store used ones at the North Road location. Most all repairs are done at the job site. No chemicals are used at the warehouse. Employees include himself and his mother. He also buys and sells used printing equipment. There would be no traffic impact as customers come on an appointment only basis.

Mr. Bartlett stated that Mr. Amundsen's business is less of an impact on the neighborhood than the auto repair business. He is looking for conditional approval on the sale of the property. He stated that the property is currently going under environmental testing, which has all come up clean. They are just waiting for a deep-water test.

It was noted that the auto repair business is a grandfathered business and that NHMA states that a grandfathered business cannot be expanded or changed without the approval of the Zoning Board of Adjustment. Members agreed that the proposed use would be a better use, but that the Planning Board did not have the authority to grant a change of use on a grandfathered property.

It was also noted that this was nonbinding discussion and that a formal denial could only be obtained after a formal site plan review application was submitted and a public hearing was held. Members again stated that that favored the conceptual proposal, but that approval of the change of use must first be given by the ZBA.

**East Kingston School District – 5 Andrews Lane Site Plan Review – Public Hearing:** Chairman Smith opened the public hearing for the East Kingston School District's proposal to construct a 7,443 foot addition to the existing elementary school on Andrews Lane. It was noted that conditional approval was given in June, however the drainage plan presented at the time could not be executed. The applicants were before the Board tonight with a different drainage plan.

Jeff Nawrocki, PE from JSN Associates stated that a number of things happened since the June meeting. The School Board met with the State Fire Marshall and the East Kingston Fire Department and an agreement for fire suppression was reached. The school would be sprinkled over a 3-year period instead of constructing a fire pond. This 3-year period would consist of three phases— year 1: piping would be installed throughout the new addition; year 2: the cistern and pipe would be installed and the addition section would be activated; year 3: piping installed throughout the remainder of the existing building. This also means that the firewall designed in the plans would be eliminated.

Mr. Nawrocki continued to say that a new drainage resolution had been acquired. Water run-off would now be piped across South Road and through the Flanagan property and dumped in the wetlands at the back of their property.

At the inquiry of Mrs. Filio, Mr. Richard Poelaert stated that a clerk of the works had not yet been hired by the school board nor had a contractor.

When asked what type of fire protection would be in place during the first two years of the sprinkler phase, Fire Chief Alan Mazur stated that this agreement keeps all parties happy. The State Fire Marshall, the Fire Department and the School Board are pleased to get a better fire suppression system.

Mr. John Chagnon, PE from Ambit Survey then presented the new drainage plan. He noted that a signed easement was submitted to the Board for recording. The easement deed describes the agreement between the school district and the Flanagan's to install a 20" pipe underground through the Flanagan property and dumping water runoff collected from the school site to the wetlands located at the back of the Flanagan property.

He stated that the new plans also show an oil & water separator – one of the issues the Planning Board spoke of earlier. He noted that the pipe is curved, as he didn't want to aim it at any abutting properties. Because of the location of a swale on the property, the water although looks like it will flow to the southeast, will actually flow northwest. The pipe's direction was dictated by the Flanagan's and the Conservation Commission.

Mr. Larry Smith stated that they wanted to stay away from the Cacciatore property and avoid older trees on the Flanagan property.

Mr. Chagnon continued to explain that the easement is inclusive to the School Board's liability to move the pipe in the future, if needed. This is a 20-ft. easement.

Discussion then transpired about the actual language of the easement deed. One planning board member, also an attorney recommended more specific language be written to protect the school from getting the pipe forced off the Flanagan property by the construction of buildings. The member also noted that the deed does not include the size of the easement.

Mr. Chagnon stated that a plan showing the actual location of the pipe would be recorded later, but that this document would suffice in getting the construction for the new addition started.

When asked if the School Board was happy with the easement deed, Mr. Poelaert replied "ecstatic".

At the concern of some members, it was noted that the record would show that the Planning Board did have reservations about the language of the deed but would proceed with the site plan review application at the request of the School Board.

Mr. Fitzgibbon stated that they need to move forward with the construction and that a final draft of the easement deed would come later.

Selectman John Fillio added that given the size of the parcel, there would always be room on it for the pipe. The owners can't develop every bit of the property – this is a mute point.

Noting the previous conditions set at the June meeting, members were in agreement that they have been satisfied.

**MOTION:** Mrs. Fillio motioned to invoke jurisdiction on the School District's new drainage plan for a 7,433 square foot addition to the Elementary School. Dr. Marston seconded. With no further discussion, the motion carried 4-0.

**MOTION:** Mrs. Fillio motioned to approve the site plan review for the East Kingston School District's plan to construct a 7,433 addition to the Elementary School. Dr. Marston seconded.

DISCUSSION: Mrs. Fillio stated that she did not want to see the town get into a legal bind over the language of the easement. She asked if this could be referenced.

Mr. Riley stated that it already has been.

**The vote carried 3-1. (Mr. Riley opposed.)**

1. It was agreed that the new plan would show the culvert to the Flanagan property and a new sheet #1.
2. A final easement would be recorded with an easement plan at a later date.
3. The current easement deed would be recorded as soon as possible.

**David Rohrdanz – 52 Burnt Swamp Road Home Occupation – Discussion:** Chairman Smith opened discussion with David Rohrdanz at 9:19 PM regarding a proposal to operate a boat upholstery business from 52 Burnt Swamp Road. It was noted that this was nonbinding discussion.

Mr. Rohrdanz explained that in addition to his full time job he would like to stitch boat cushions and tops from his residence. There would be no sign, no traffic, all repairs would be done in his garage. He would transport to and from the residence all cushions or

items for repair. No boats, just boat cushions transported from his truck to his garage. There would be no sign on his vehicle and there would be no commercial vehicles.

The Board was in agreement that the scope of the business fits under the seamstress/tailor provisions. Some members felt this proposal also fit into the invisible clause of the home occupation ordinance. In an effort to be fair to abutters, the Board recommended Mr. Rohrdanz submit a home occupation application where a public hearing would be conducted. At that time the Board would consider whether or not the proposed business would fall under the invisible clause.

#### OTHER BUSINESS:

At this time members of the Planning Board held discussion with members of the Board of Selectmen in an effort to improve communications between the two boards. It was noted that a member of the Board of Selectmen and a member of the Zoning Board of Adjustment sit on the Planning Board thus it could be expected that information regarding Planning Board activities is being reported back to the two other boards. This not always being the case, the boards talked about ways to better improve their communication to each other. It was suggested that all Planning Board minutes be distributed to the ZBA. It was also suggested that when the Planning Board adopts an amendment, such notice be forwarded to the other boards.

Also included in the Board's discussion was the ability and inability of the Board of Selectmen to enforce current zoning laws. At the advice of Town Counsel, the Board of Selectmen requested that when new ordinances are written, they not be so broad or vague. The Board of Selectmen elaborated by sharing with the Planning Board two current issues where they are having difficulty enforcing. The first being a dust problem on Freeman Street and the second being a noise problem on Havehill Road. It is Town Counsel's opinion, also shared by the Board of Selectmen, that both portions of the zoning ordinance that reference those two issues are too broadly written and not enforceable. References to noise should be given specific scientific decibel measurements, while the dust reference is not strong enough to stand on its own.

The Board of Selectmen continued to explain that both of those references in the zoning ordinance are open to an individual's interpretation. The spirit may be there, but the language is too vague. They insisted that this discussion was not to criticize the Planning Board but to recruit their help in taking corrective measures.

Members of the Planning Board informed the Selectmen that the Planning Board alone does not write all ordinances. If the Board of Selectmen is finding discrepancies with the ordinance's language, the Planning Board welcomes them to join them in drafting a better one. The Planning Board is not the only board with the authority to write an ordinance that would go before the local legislative body.

The Board of Selectmen then questioned whether or not the Planning Board has a specific checklist when conducting a site plan review. Planning Board members stated that all the required information in reviewing a site plan application is found in the Site Plan Review Regulations. The Board of Selectmen suggested that an actual checklist be developed to see that all applicants get a rigorous review.

Members of the Planning Board explained that not all requirements in the Site Plan Review Regulations apply to each application. These must be examined on a case by case basis. The Board of Selectmen responded that if such a checklist were implemented then hours of operation and noise would get addressed on each proposal. Even if many of the regulations don't apply to that particular case, at least a paper trail noting each item on the checklist was acknowledged. Having a checklist conveys the idea of fairness to all.

Another item the Selectmen say is not clearly defined in the zoning ordinance is the definition of a farm vs. a commercial enterprise. Because it is not clear, some commercial businesses are hiding behind the farm provisions for zoning. When does an agricultural use become commercial?

The Planning Board agreed to look into writing some stronger, clearer language for the above aforementioned. The Board of Selectmen agreed to forward the report from Town Counsel regarding the enforceability of those items. They also suggested that before drafted amendments are put on the ballot, they be forwarded to the ZBA and Board of Selectmen for review and input. Involving all the boards at the planning level may help the town to avoid similar enforcing problems in the future.


It was noted that ordinance drafting must be done immediately as the process for adoption is only a few months away. Drafting and redrafting could take several meetings, plus the scientific data necessary to write more specific language must be collected. It was suggested that work sessions to include all three boards should be scheduled. The Board of Selectmen would draft a list of all items they recommend being amended.

Both boards agreed to work together to create more viable language for the zoning ordinance.

**Joint Planning Board Meeting:** Members were reminded to attend a joint planning board meeting with the town of Kingston regarding the golf course on Depot Road and to discuss a conceptual plan to subdivide land located off Route 111 in Kingston, but located in both Kingston and East Kingston. The Board of Selectmen was invited to attend.

With no further business before the board,

**MOTION:** Dr. Marston motioned to adjourn. Mr. Riley seconded. With no further discussion, the motion carried 4-0 and this August 19, 1999 public planning board meeting ended at 10:24 PM.

Respectfully submitted, 

Catherine Belcher, Secretary

Minutes completed and on file August 22, 1999.

Minutes approved on 9/16/99