



PLANNING BOARD  
TOWN OF EAST KINGSTON  
New Hampshire

2015-2016  
Joe Cacciatore, *Chairman*  
Dr. Robert Marston, *Vice Chairman*

**MINUTES**  
Regular Meeting 20 August 2015  
7:00 pm

**AGENDA:**

- ◆ **Call to Order**
- ◆ **Discussion** with Brad Jamieson, 14 Powwow River Road (MBL 10-03-09) regarding site configuration and tenant changes.
- ◆ **Public Hearing** for Home Occupation for vehicle restoration for Reid Simpson, 35 Giles Rd., East Kingston (MBL 16-02-09) dba Reid's Autobody (15-HO3).
- ◆ **Board Business**

**CALL TO ORDER:** This meeting of the East Kingston Planning Board was called to order at 7:00 pm.

**ROLL CALL:**

**Members Present:** Chairman Mr. J. Cacciatore, Vice Chairman Dr. R. Marston, Mr. J. Bath, Mr. C. Delling Mr. B. Caswell, and Ex-Officio Mr. R. Morales.

**Advisors present:** Rockingham Planning Commission (RPC) Senior Planner Ms. J. LaBranche; East Kingston Building Inspector Mr. John Moreau; East Kingston Assistant Building Inspector Mr. Tom Welch; and East Kingston Fire Chief Mr. Ed Warren.

**Also Present:** Applicant Brad Jamieson and his representative Dennis Quintal; applicant Reid Simpson and his Attorney Jerome Blanchard; residents Wyatt Marston and Richard Marston; and East Kingston Police Officer Charles Rodolakis.

**Minutes**

Mr. Cacciatore asked for a **MOTION** to approve the July minutes. Mr. Morales **MOVED** to accept the July 16, 2015 Planning Board minutes as presented; Dr. Marston seconded. Motion passed unanimously.

**Discussion with Brad Jamieson, 14 Powwow River Road (MBL 10-03-09) regarding site configuration and tenant changes.**

Mr. Cacciatore opened the discussion. Mr. Quintal provided an updated water flow chart, which shows the total flow of 740 GPD is still below the maximum approved flow of 950 GPD. Mr. Jamieson provided the Board with an updated tenant list with contact numbers.

Mr. Cacciatore asked Mr. Jamieson to explain what he was proposing for his Powwow River Road location.

Mr. Jamieson explained that currently, the rental spaces are arranged as follows:

- Sweet Baby Vineyard is still occupying Building B.
- Kid Logic Day Care has agreed to vacate Unit 4 and occupy Building B. Her daycare business has outgrown her present space and she is turning away clients.

- There will be a complete a build-out inside of Building B. This should happen in the Sept/Oct time-frame.
- Genesis Alternative Health has moved to Unit 1.
- Eclipse Product Development had requested the space KidLogic is vacating. They currently occupy Unit 5 and would also like Unit 4. Eclipse intends to use the space for prototype assembly; current workspace is too small. The plan is to cut a double door opening in the wall and join the two spaces as one.

Sweet Baby Vineyard has agreed to allow the construction of the front entry and removal of two small garage doors before they vacate. The front entry will be single-story and much smaller than shown on the site plan. Mr. Jamieson wishes to begin construction after the August Planning Board meeting.

Ms. LaBranche asked what would be on the second floor; Mr. Jamieson noted it would be Ms. Kearney's office space and storage. The existing bar will be removed.

Chief Warren reported met with Mr. Jamieson last Friday and requested he contact the Fire Department more quickly in the future as changing walls changes the fire alarm system. They would also need to make sure the new location of the daycare is connected to the system. He indicated fire egress would need to be addressed, there might be handicap accessibility issues with the second floor (which will be addressed if necessary), and that the state would need to approve the teacher-to-child ratio. Mrs. White noted that Ms. Kearney is in the process of getting her approvals from the state.

Ms. LaBranche noted this was not a public hearing, Mr. Jamieson had provided the necessary chart for the water flow and an updated tenant list. There was no change of use; the daycare was only changing location.

Although this was a discussion and not a public hearing, the Board wanted to make a motion.

Mr. Bath **MOVED** to accept the materials provided by Mr. Jamieson for 14 Powwow River Road, MBL 10-03-09, (updated water flow chart and tenant contact/reconfiguration list). Mr. Morales seconded; the motion was unanimous.

Mr. Cacciatore noted that Mr. Jamieson's next step would be to meet with the Fire Chief for the necessary changes he would need to make to meet fire codes, and to acquire his needed permits from the Building Inspector. Mr. Jamieson thanked the Board for their time.

**Public Hearing for Home Occupation - vehicle restoration for Reid Simpson, 35 Giles Rd., East Kingston (MBL 16-02-09) dba Reid's Autobody (15-HO3).**

Mr. Cacciatore opened this Public Hearing indicating there would be no abstaining members of the Board. He then invited Mr. Simpson to explain what he was proposing for his home occupation at 35 Giles Road.

Mr. Simpson explained he wanted to open a small vehicle restoration home occupation which would be limited in scope as he has a one-bay garage 16 x 30. He would do light repairs/ mechanical and auto body work; he restores antique cars. He was not anticipating on hiring anyone; it would just be himself conducting the work.

Ms. LaBranche noted there was nowhere in the home occupation ordinance that states you **cannot** have a garage. Mr. Cacciatore noted at one time there were 5 garages in Town, which is not the case at the present time. There had been a previous resident who came before the Board for the same type of home occupation, but his neighbors were against it. Mr. Simpson appears not to have any objecting neighbors.

Mr. Bath reminded the Board that the resident had petitioned to make part of his property commercial so he could operate a garage, but it did not pass at Town Election. Mr. Simpson recalled that hearing, noting it was also the driveway location on the curve of the road that was the issue.

Mr. Cacciatore noted they might need to invite him back to the Board and if his neighbors did not object, they might be able to pass that as a home occupation.

Mr. Cacciatore noted in the other case the neighbors had issues. In this case all the neighbors will have a chance to speak. Mr. Bath noted in the home occupation ordinance it states under uses not permitted industrial, commercial, manufacturing activities are not allowed. Whether or not this a commercial activity is the first item the board needs to determine.

Mr. Cacciatore stated that's where the neighbors come in; if they complain about loud noises or bright lights. He noted if they were to move forward, Mr. Simpson would have to meet all the criteria - fire department, building inspector, etc. Especially with a body shop; you may have oils, gasses, and lacquers. Mr. Caswell asked if he had had any in 19 years complaints; Mr. Simpson stated not one has ever complained.

Ms. LaBranche commented Mr. Bath was referring to #12 occupations not listed above that are of similar nature may be allowed with a positive recommendation by the Board and approval by the Board of Selectmen. We are evaluating this particular proposed use; is it similar to anything listed in #1-11? These are mostly retail, service-oriented, professional type activities. Moving down to what's not permitted, the industrial, commercial and manufacturing is pretty obvious. If this restoration business were to be servicing commercial equipment and vehicles, that would be considered a heavier use than is typically permitted in a residential district.

She asked Mr. Simpson what types of vehicles he would be servicing; Mr. Simpson answered classics and personal vehicles. He has a small garage; most of the work has been for friends but not profitable.

Ms. LaBranche noted the distinction is it seems to be a small scale activity that does not appear to be commercially oriented. A distinction can be made from something low key versus something that is on a commercial/ industrial scale.

Mr. Morales noted it could be considered a hobby. Mr. Bath noted hobbies don't generate income. Mr. Morales stated some hobbies do.

Mr. Bath noted one of the reasons there are non-conforming, grandfathered businesses is because, at some point, the town said they don't want businesses opening up in different parts of the town. That's why the commercial and light industrial zones were created, in addition to the agricultural/residential district. The townspeople asked for regulations to be able to make sure the residential communities stayed residential. He reviewed the Master Plan and that was what people had wanted to happen. The Town/and the Planning Board created ordinances and regulations and enforce them based on what the residents want.

It is Mr. Bath's understanding that as grandfathered businesses stopped doing what they were doing, the privilege is taken away as the business had not been continued. He asked what makes this particular instance the exception to the rule?

Mr. Cacciatore referred to the list of businesses you cannot have as home occupations and noted Mr. Simpson does not fall into any of those categories.

Mr. Bath asked if Hanscom hadn't been a garage, would be allowed today? Mr. Delling asked if Mr. Simpson was intending on inspecting cars? Mr. Simpson stated he was not. He was just trying to start up a small operation. Mr. Cacciatore noted in the past there were similar requests that have been denied which might need to be revisited.

Ms. LaBranche reiterated the Board they would need to make a decision whether the proposed business is similar in nature to any of the other uses that are allowed and does not fall into one of the non-permitted categories.

Ms. LaBranche asked Mr. Simpson for a more detailed description of what he would be doing to the vehicles he intends to work on; what services would he provide. Mr. Simpson replied mostly brakes, he tries to stay away from changing oil, painting a bumper or fender. Mostly he likes to restore old cars. He can only work on one item at a time because there is only one bay.

Ms. LaBranche asked if he was painting; Mr. Simpson stated if he was doing an big job and required an overall paint job, he has a friend who has a spray booth in Kingston. He did recently did a job for the town and repainted a vehicle at his home; he was being pressured to finish and could not get the vehicle to his friend's, so he did it in his garage.

One of the requirements on the checklist on the back of the application that states he will not have any excessive emissions of fumes or gases, including paint fumes. Ms. LaBranche noted if Mr. Simpson was going to be doing any painting, if that would be one of the things the Board would allow, he would need to have a specialized venting system installed in the bay. Mr. Simpson says he has an HVLP gun which does not have a lot of overspray.

He has spoken to one of his neighbors who stated he could not hear or smell anything coming from his property; this neighbor has no problems. Mr. Simpson says there is a train behind his house. Unless you were looking in to his property from the end of the driveway, you cannot see his house as there is a berm. It is wooded; his house is set back about 300 from the road. If he was going to do anything that is really loud, he would shut the garage door and do it inside.

Ms. LaBranche reminded Mr. Simpson that one of the stipulations was that all of the activities would need to be conducted inside the building. There cannot be extra vehicles parked outside waiting to be serviced. She also noted that disposal of any refuse materials would be Mr. Simpson's responsibility and could not go into the town's regular trash. Storage of any paint and similar materials would need to be in a specialized locker; the Fire Department would give him direction on that.

Mr. Caswell noted most people worked on their own cars, so what would make it a business? Ms. LaBranche replied because he charges money for his services. Mr. Simpson stated that over the years he has done work for town officials; he had told prior Selectmen he has a shop in his garage and asked if was there anything he needed to do. They said he was invisible and he did not need to do anything.

He was not planning on anything like the garage on North Road; Ms. LaBranche stated that location was a grandfathered commercial garage and as such was an entirely different case.

Mr. Warren noted he agrees with Mr. Bath and the references from the Master Plan. His personal belief is that everyone should be able to do whatever they want to on their property. That said, in serving previously on the Board as a member and Chair, he had been reminded their job as a Board was to direct adherence of the regulations, ordinances and Master Plan. He noted that several other proposed businesses of the same type had been turned down as what they wanted to do was not allowed by the ordinance as it was not similar to anything listed that was allowed. The Board had also been adamant in cases where there had been previous garages, and enforcement in cases of grandfathered businesses reiterating it went with the home owner and not the property and after abandonment for a period of one year, the grandfathering went away.

If this home occupation is approved, he will conduct all the necessary inspections and ensure codes are being followed as to storage of flammables, etc. He noted for an regulation spray booth, it would be an extremely high cost to have it comply with emissions requirements. Mr. Simpson stated he was not going to be doing anything that in-depth.

Mr. Bath asked if Mr. Simpson could review the list of permitted uses for home occupations in the ordinance and tell the Board under which category he thought what he was proposing fit. Which category most closely resembles what he wanted to do? The ordinance does state "occupations not listed above or similar in

nature." Mr. Bath noted the permitted uses mostly include professional service-type home occupations; with some retail. Mr. Simpson opined he thought he could be considerate an artisan.

Mr. Bath asked if their function as a Board was to make exceptions or would that determination be made by the Selectmen? Mr. Cacciatore noted they could never list all the things that could be allowed, but they did have a list of uses that were not permitted. And garages were not on that list of not permitted uses.

Mr. Bath noted that the permitted uses are of certain nature and flavor, He opined garages, auto body or auto restoration do not fit into that realm of permitted uses currently shown. Two concerns are: 1) make sure they would not be opening up a can of worms for all the other people in the past they have denied for similar uses to come back to the Board, and 2) they would be setting a huge precedent by allowing commercial enterprises in the residential zones, even if they were small.

Mr. Simpson opined there were other approved businesses in Town which did not fit into the categories listed. He was not there to argue, he was there to do the right thing; he wasn't going to get rich. He was not bothering anybody. Mr. Moreau noted he has not had any complaints.

Mr. Cacciatore opened up the floor to abutters for comments.

Richard Marston stated he was not an abutter but lived close and stated you could not tell Mr. Simpson was doing any work as there was no obvious noise.

Jerome Blanchard stated he was a friend of Reid's and reiterated Reid has been doing this work for 19 years. He worked on Town vehicles as recently as July of this year; the Selectmen approached him to repaint a military vehicle. He thought it ironic that the Town was now saying he shouldn't be doing it as they asked him to do the work. Anytime you sell anything its commerce. The Town recently gave approval for Bocovina Cuisines which sells food, and down the road from Reid is V-8 Shop which is another automotive business on Giles Rd. He does not see how what Reid is doing would change the area because of how he is situated on his property.

Dr. Marston stated he was an abutter and does not get any noise or fumes from Reid's property; you would not know Reid was there. He noted it had been a shop run by Wes Nickerson for many, many years before there were home occupation articles.

Mr. Warren agreed with Mr. Cacciatore that perhaps it was a good time to re-evaluate the list of approved home occupations.

Mr. Cacciatore noted that he did not see there was anything in the ordinance stating this home occupation was either allowed or disallowed and opined it could come down to if it met fire code regulations for a body shop.

Ms. LaBranche noted that the biggest hurdle for Mr. Simpson to scale was if what he wanted to do was of a similar nature to anything on the list. Most of the other categories could be categorized as service-oriented light activities. A way to make sure an activity such as the home occupation proposed by Mr. Simpson operates on a scale that would not be uncommon to the same activities residents do on their own properties as far as working on their cars is to mandate certain conditions. You can narrow the scope of activity to make sure it never gets bigger and stays at a scale that is appropriate for a home occupation by adding conditions that there will only be one garage bay, and that painting with a spray gun does not occur and limit to touch-up with a spray can.

Mr. Cacciatore noted in reading the description of the proposed operations, it was more body shop than a mechanical shop. Ms. LaBranche noted it is somewhat isolated and with restrictions it could be kept to a small operation. She reminded Mr. Simpson there could be no vehicles stored outside.

Mr. Cacciatore noted hours of operation on the application stated 8:00 am to 5:30 pm but there were no days specified. Mr. Simpson thought it could be as needed; Mr. Cacciatore noted that the Board usually asked applicants to ask for the most hours they ever thought they would need; then they could operate between any of those hours they chose without needing to come back to the Board for a change. Mr. Simpson kept the stated hours, but asked to include Monday through Sunday as days to work.

Mr. Cacciatore wanted to recommend that the Fire Chief make an inspection to see if it complied and then have Mr. Simpson come back to the Board. Ms. LaBranche reminded there needed to be a vote if the Board agreed to make a positive recommendation, and a setting of conditions which would need to be complied with; the inspection by the Fire Chief could be one of those conditions.

Mr. Cacciatore reviewed the list of specific conditions and regular conditions:

1. All standards listed under Article XVI, Paragraph C. - Home Occupation Standards shall be complied with.
2. Required inspections will be conducted by the East Kingston Fire Department, initial and periodic.
3. Operation is limited to one garage bay, no expansion.
4. All work shall be conducted inside the garage and no vehicles to be stored outside.
5. Hours of operation shall be 8:00 am to 5:30 pm, Monday through Sunday.
6. No sign will be allowed as it qualifies as an invisible business.
7. All refuse generated will be disposed of by the homeowner at his expense and cannot go into the town's regular trash.
8. Any change in the nature of the business, its scope, or number of employees shall be reviewed by the Planning Board for approval by the Board of Selectmen.
9. All outstanding or future fees and charges due the Town and administrative costs incurred by the Town will be fully discharged.
10. Any deviation from these approved conditions without prior consent could result in the rescinding of the home occupation permit.

Mr. Cacciatore asked for a **MOTION**.

Dr. Marston **MOVED** to send a letter of recommendation to the Selectmen for the Home Occupation for vehicle restoration for Reid Simpson, 35 Giles Rd., East Kingston (MBL 16-02-09) dba Reid's Autobody (15-HO3) with the condition he adhere to the above conditions and pass the Fire Department inspection; Mr. Morales seconded. The vote was 5 affirmative, and 1 opposed. Motion passed.

A letter of recommendation will go the Selectmen, who have the final say. Mr. Morales noted that the findings of the Fire Department inspection should accompany the letter of recommendation before it is reviewed by them. The next Selectmen's meeting is August 31st.

Mr. Cacciatore closed this public hearing. Mr. Simpson thanked the Board for their time.

## **Board Business**

### **Regulation and Ordinance Changes**

Ms. LaBranche noted they would have discussion on the home occupation ordinance in September and review other proposed changes/clarifications to the subdivision regulations and ordinances in October. Mr. Bath reminded the Board that the Master Plan was sorely outdated and needed to be worked on also. It would be good to get some input from the residents on how the Town has changed and where they wanted to proceed in the future. Ms. LaBranche suggested holding a workshop and inviting the residents to give suggestions of additions to the permitted uses.

### Farm Stand Question

Mrs. White reported that a resident living on Main Street wanted to have a farm stand, which is allowed, and would like a sign. She referred to the *signs in residential areas* ordinance. Mr. Morales noted another farm stand on Depot Road had a home occupation; Mr. Cacciatore said that was because he bought some of the items he sells and does not grow it on his property. The Board suggested the resident write a letter to the Selectmen asking for a 4' square sign for his farm stand, include a sketch and verbiage of where the sign will be placed and include some of the language from that section of the ordinance. Mrs. White will let him know how he needs to proceed.

### Cricket Hill Question

Mrs. White had received a call from the Cricket Hill Condo Association asking what a prospective resident would need to do to obtain permission for her under-55, handicapped child to live with her. Board consensus was to have the person write a letter to the Selectmen, who will forward it over to the Town Attorney to review. Mrs. White will let them know the process they will need to follow.

### Country Hills Question

Mrs. White had received a call from the Condo Association Chair in regard to RV/boat storage. The Country Hills condo documents state there is an area set aside for that type of storage, but it was not included on the recorded plan. They would like to know what they would need to do if they decide they would like to create such an area. Ms. LaBranche stated they would need to get an engineer to draw up a plan showing where they would like to locate that area and come before the Board for an amended site plan public hearing. Mrs. White will let them know what they would need to do.

### An Alteration of Terrain

They had received an Alteration of Terrain for Powder Mill Road which is in Exeter, Kensington and East Kingston as an FYI. Mr. Quintal noted the state must have given their approval based on some of the comments from the East Kingston Conservation Committee, but he does not know the conditions that were set. He also reported the historical marker was still intact on Powder Mill Road; it had been thought to have been removed but was located.

### Town Growth

Mr. Caswell had reviewed at Rockingham County growth rate information and at 3% growth, East Kingston would be up to 10,000 people in 50 years. Mr. Cacciatore agreed, but noted it was if you were allowed to build that many homes per year. Mr. Bath noted that at a meeting he had attended, they were told the growth rate was not growing as they had predicted it would.

Mrs. White noted she will be unable to attend the September meeting and Ms. LaBranche will record the minutes. There will be a lot line adjustment on the agenda for September.

### **ADJOURNMENT**

**MOTION:** Dr. Marston **MOVED** the Planning Board adjourn; Mr. Delling seconded. The motion was unanimous.

The meeting was closed at 8:30 pm. The next Planning Board meeting will be September 17.

Respectfully submitted,

*Barbara White*

Planning Board Secretary  
Mr. Cacciatore, Chairman

Minutes approved September 17