

TOWN OF EAST KINGSTON, NH  
PLANNING BOARD MEETING MINUTES  
September 10, 1998

FILE

WORK SESSION

**Members attending:** Richard A. Smith Sr. - Chairman, Ed Johnson – Vice Chairman, John L. Fillio -Ex-officio, Catherine J. George, and Alternate Beverly Fillio.

**Absent:** Dr. Robert Marston and Alternate Robert Nigrello.

**Others attending:** Sarah Campbell– RPC Circuit Rider.

Chairman Smith opened this September 10, 1998 Planning Board Work Session at 7:12 p.m.

**Retirement Community:** Chairman Smith informed the Board that Bruce Lewis, who previously inquired about backland on Willow Road, is now inquiring about 70 acres of the Levis' property to propose a retirement community. Mr. Lewis has not yet made any contact with the Planning Board.

**Sanborn Road Land Purchase:** The Board was informed that the 100-acre Ladd parcel on Sanborn Road has been sold and that Developer Dean Howard may be proposing a progressive development of 25 to 30 house lots with 10 running along Sanborn Road. Again, no contact has been made with the Planning Board.

The Board questioned the strength of the Growth Control Ordinance and whether or not it could be challenged. The Board agreed that the ordinance is fairly written and that it is supported by an up-to-date Capital Improvements and Master Plan. It was noted that several other towns do not have growth control ordinances and they are growing out of control.

Chairman Smith stated that if an income tax were established in New Hampshire, growth would come to a stand still.

The Board then reviewed the number of new construct building permits issued in 1998. As of August 1<sup>st</sup>, seven permits have been issued.

**Future Goals:** The Board went into extensive discussion on the future goals for the Master Plan. It was the consensus of the Board that many of the goals from the 1988 Master Plan were still applicable to 1998's goals. The Board reviewed the 1988 goals in comparison to those submitted in 1998. During this comparison the Board touched on the home occupation ordinance and its status. All members agreed that enforcement of this ordinance is vital to the ordinance's viability.

Mr. Johnson suggested that prior to the approval of a home occupation permit, a site visit of the residence be done with documentation of the site's condition placed on file. In addition, upon the annual permit renewal, the site be revisited to verify the home occupation is in compliance with the ordinance as well as any special conditions assigned by the Planning Board or Selectmen.

Members were supportive of Mr. Johnson's suggestion and further stated that this be written into the ordinance. Business owners must be made aware that these inspections are a part of the home occupation agreement.

Mrs. Campbell noted that the types of businesses that are generally problematic are the ones that do not fit into the scope of businesses allowed in the ordinance. These commercial type businesses tend to create more of a problem, as they do not reflect the intent of a "home" occupation. Members were in agreement.

Discussion was directed back to the goals list. The Board acknowledged that the preservation of open space is greatly supported by the Conservation Commission and that East Kingston's Conservation Commission will have funds available in the future for open space purchases. The conservation commission collects 50% of the land use change penalties.

In comparing the 1988 and 1998 goals, the Board drafted the following proposed future goals for East Kingston.

1. Preserve East Kingston's rural, residential character, tighten aesthetic standards, preserve historic areas and buildings, and promote the continued operation of active farms.
2. Establish a Growth Control Ordinance to ensure public services keep up with the growing population.

3. Preserve the Town's natural areas, such as wetlands, forests, and the Pow Wow waterways.
4. Create well-designed, well-maintained, well-policed road network with small New England Town Character.
5. Encourage/promote the use of existing light industrial and commercial districts in town.
6. Increase recreation opportunities and facilities for all ages, including a recreation center and use of the town beach.

**Farm Definition:** Mrs. George stated that her husband, Howard, traveled to Concord to investigate the State's definition of a farm. It was explained to him that the activities currently taking place at the George's residence, meet the definition of a farm. He was also given RSA information. She further quoted East Kingston's Zoning Ordinance Article V.B, which states:

*Home produce and products may be bought and sold and exposed for sale.*

Mr. Fillio stated that he feels Mrs. George's farm stand is a business and not a farm, as she does not grow or produce her products.

Mrs. George responded that she does grow vegetables in her back yard and rents fields from other property owners.

Chairman Smith stated that the State says small operations are considered farms. Recent legislature has passed that allows the use of greenhouses to be categorized as agricultural. You don't even have to till the soil anymore.

Mr. Johnson added that no specific percentage of produce grown on location v. produce purchased and sold is given to qualify a business as a farm stand.

Chairman Smith stated that once it is established as a farm, it is not considered commercial.

Mrs. George reiterated that she rents a field to grow her corn. Mrs. Fillio responded that Mrs. George previously stated that a neighbor gives her vegetables to sell.

Mr. Johnson directed attention to an upcoming home occupation hearing where the parking situation is comparable to the parking at the George's farm stand. He stated that although he has not had any problems thus far, many of the George's customers are parking across the street at his house, as well as on the street in front of the stand. This is clearly prohibited in the ordinance. Adequate parking is one of the criteria for operating a home occupation.

He continued to say that given the inadequate parking at the upcoming proposed business, which is also located at a dangerous intersection, the Planning Board must consider traffic safety. It would be unfair to deny the upcoming proposed business based on inadequate parking when the George's business has the same problem.

Mrs. George offered to put up parking signs that would direct customers to use her horseshoe driveway instead of using the roadway.

Members stated that as a Planning Board member, Mrs. George must set a precedence of what is allowed. Home occupations must be checked and rechecked to verify compliance and the ordinance must be fairly and equally applied.

**Noise Ordinance:** Mr. Fillio apprised the Board of recent complaints of noise generated at the light industrial park, (the former MSK Lumber complex). The Selectmen are requesting the Planning Board to incorporate a noise ordinance addressing such problems into the zoning ordinance.

It was noted that Article IV – General Provisions, Section A states:

*Any use that may be obnoxious, injurious or in the nature of a nuisance by reasons of production, emission of odor, dust, smoke, refuse matter, fumes, noise, vibration or similar conditions or that is dangerous to the comfort, peace, enjoyment, health or safety of the community or lending to its disturbance or annoyance, is prohibited.*

Mr. Fillio inquired if this statement was sufficient to present to the light industrial park's owner for compliance.

Chairman Smith suggested that each member visit the light industrial park prior to next week's meeting to gain insight to the park's actual set up and operations. Park owner, Charlie Marden will be present next meeting to discuss a future site plan review proposal.

**Voluntary Merger:** The Board was informed of a request to voluntarily merge to nonconforming lots together on Rowell Cove Road. The outcome would still be a nonconforming lot, however, less nonconforming. The Board reviewed the statute (RSA 674:39a) for voluntary lot mergers and noted lots may be merged without public notice and notice to abutters if a new conforming lot is created. Because this merger will not create a conforming lot, members requested public hearing and abutter notices be sent. It was also requested this public hearing be scheduled for October.

**Erickson Building Permit:** The Board was advised of a building permit request for a new construction home on a lot where an older mobile home exists. The building permit requests the mobile home be allowed to stay on the lot while the new home is constructed. A letter from the property owner stating his intentions to remove the mobile home prior to the issuance of an occupancy permit was presented.

The Board recollected a similar request in 1996, in which a Pow Wow River Road resident requested a mobile home be placed on the property where a new house was to be constructed. The Pow Wow River Road resident was directed to go the ZBA. The ZBA in turn approved the proposal with the condition a \$5,000 security bond be provided, (to secure the cost of removing the mobile home in the event the property owner refused).

The Board further recollected a when a North Road resident promised to remove a mobile home from a parcel when the new house was built, and did not. The Board has since learned that to confirm a mobile home's removal, a bond must be issued. Again, the ordinance must be fairly and equally applied.

**Temporary Signs:** The Board discussed whether or not temporary signs should be addressed in the zoning ordinance. Members expressed their favor in having one to reference should future complaints arise. Mrs. Campbell will draft an amendment for the Planning Board's review. She will, however, keep the agricultural issue out of it and focus on the temporary signage definition.

**Inspection of Property:** Members questioned whether or not Planning Board members have the authority to inspect properties when issues arise. The Board recognized Article IV.7.H of the zoning ordinance.

*The members of the Board of Selectmen, Planning Board, Board of Adjustment and Building Inspector shall have the express authority for the applicable Board to review on site the property upon which an owner has requested for a building permit, subdivision or variance, prior to, during and until completion of the change allowed by the building permit, subdivision or variance.*

**90-Day Clock Amendment:** Mrs. Campbell distributed a 90-day clock amendment draft for member's review. This will be discussed at the next meeting.

**Information Packet:** The Board was informed of the documents in the meeting's information packet. They include: Planning Board minutes, a home occupation application, upcoming ZBA case, joint board meeting date, and three different minutes regarding the upcoming Brandolini case.

With no further business,

**MOTION:** Mrs. George motioned to adjourn. Mr. Fillio second. The motion passed 5-0 and this September 10, 1998 planning board work session ended at 10:00 p.m.

\* Catherine Belcher  
Secretary

Minutes completed and on file September 11, 1998.