



PLANNING BOARD
TOWN OF EAST KINGSTON
New Hampshire

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

MINUTES
(Public Hearing of 18 September 2008)
7:00pm

AGENDA:

- ◆ Call to Order and Approval of Minutes
- ◆ **Continued 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)
- ◆ **Public Hearing** with Fred and Kathy Ford, 5 Depot Road, East Kingston regarding installation of a fence around their storage units (MBL 09-03-10)(PB#06-OD)
- ◆ **Public Hearing** for Dan Musso, 71 Main Street, East Kingston (MBL 14-02-03) in regard to a proposed Home Occupation.
- ◆ **Public Hearing** for Julian Dunlop, Carmen's Restaurant, 89 Main Street, East Kingston (MBL 14-02-05) (9PB #08-OA) requesting a change of hours of operation and permission for 14 diners on the outside deck.
- ◆ **Public Hearing** for change recommendations to the Zoning Ordinances and Site Plan and Subdivision Regulations (5 ordinances, 8 regulations).
- ◆ **Proposed changes for Subdivisions Regulations by Chief Richard.**
- ◆ Change of Tenant discussion for Mr. John Mulvey.
- ◆ Board Business

CALL TO ORDER: The regular meeting of the East Kingston Planning Board was called to order at 7:01PM.

ROLL CALL: Mrs. White called the roll.

Members present – Dr. RA Marston, Mr. E Warren, Mr. R Morales and Mr. D Pendell, ex-officio.
Mr. D Sullivan was not present due to a family emergency.

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

Advisors present – Dr. Jill Robinson, PhD., Planner, Rockingham Planning Commission (RPC)
Chief Sam Richard, East Kingston Fire Chief

Voting members – As Chairman Sullivan was not in attendance, Vice Chairman Warren Chaired the meeting. Mr. Warren noted there was not a full voting Board and appointed Mr. Cacciatore as a voting member for the meeting.

Mr. Warren stated that the agenda was full this evening, and asked the Board members to get the Chair's attention to be recognized if they wanted to speak so they would not be talking over each other. He explained that the discussion might be paused to change the tape, and also asked the people who were there for Public Hearings to come to the front to speak so the Board could hear them easily.

Minutes. Mr. Warren asked for a motion to approve the July minutes. Mr. Morales had offered minor changes to Mrs. White last month.

MOTION: Mr. Morales **MOVED** the Planning Board approve the 17 July 2008 minutes with minor changes noted. Mr. Pendell seconded, and the motion passed unanimously.

Mr. Warren asked for a motion to approve the August minutes. There were no changes offered.

MOTION: Mr. Pendell **MOVED** the Planning Board approve the 21 August 2008 minutes as presented. Dr. Marston seconded. Mr. Morales abstained as he was not present at that meeting.

Public Hearing for a lot line adjustment between Granite State Gas (18-01GSGC) (PB #08-05) and Norman and Carol Freeman (Honey Bee Trust), (MBL 09-08-01) 52 Main Street, East Kingston.

Mr. Warren noted that this hearing had been placed on the agenda for this evening in error. It was continued to the October meeting for public hearing.

Public Hearing with Fred and Kathy Ford, 5 Depot Road, East Kingston regarding a fence around their storage units (MBL 09-03-10)(PB#06-OD)

Mr. Warren opened the public hearing and recognized that Fred and Kathy Ford were in attendance.

Mr. Warren explained that there had been Board discussion last month on this item, but since there was not a quorum, no motion could be made. He asked the Board members if they had more questions or discussion on the fence.

Mr. Morales had not been present at last month's meeting, but in reading the minutes was familiar with the discussion that had ensued. His concern was that the conditions of the approval stated that the height of the fence be not less than 6 feet, and the mylar did show the fence around the storage units.

Mrs. Ford stated that there actually never was a stipulation to install a fence; that there had just been discussion that *if they were to install a fence* it should be at least 6' high. The confusion for the Board is that the fence with two gates is shown on the mylar, which seemed in actuality to make it a condition.

The Ford's state that they fully intend on installing a fence when the project is complete, but there are only two sections in at the present time.

Mr. Warren stated that in last month's discussion it was reviewed that the fence was not the Board's idea, but Mr. Ford's, and that the Ford's would be installing a fence when the project was complete. At the present time the project is not complete. The Ford's did not think it fair to put a condition for 12 months after the project was complete to install the fence, as it would be a condition instituted after the fact.

Mr. Warren opened the floor to abutters.

Mrs. Patricia Mazur, 11 Depot Road, East Kingston. Mrs. Mazur stated that in her opinion, the storage units should stay as they were at the present time until the project is complete.

Mr. Warren closed the floor to abutters.

The consensus of the Board was that the fence would be installed when the project was complete, and they would meet with the Ford's in 12 months (September 2009) to review the situation was at that time.

Mr. Warren asked the Board for a motion.

MOTION: Mr. Pendell **MOVED** the Planning Board review the status of the project with the Fords in September 2009. Mr. Cacciatore seconded, and the motion passed unanimously.

Mr. Warren closed this public hearing. The Ford's thanked the Board.

Public Hearing for Dan Musso, 71 Main Street, East Kingston (MBL 14-02-03) in regard to a Home Occupation.

Mr. Warren opened the public hearing and recognized that Messers Dan Musso Sr. and Jr. were in attendance.

Mr. Warren explained the purpose of the Home Occupation Ordinance and reviewed the permitted uses under the home occupation ordinance. He then turned the floor over to Mr. Musso Sr. to explain to the Board what he proposed to do at the 71 Main Street location.

Mr. Musso Sr. explained that he and his two sons, Dan Musso Jr. and David Musso, would like to open a shop at the 71 Main Street location. His home had a large, 2-bay garage at the rear of the house that had at one time been used as an auto repair facility called *ME Merrill & Sons*. It had also at a later date operated under a Home Occupation permit for the purpose of welding and repair operating under the name *MED Welding*.

Mr. Musso had been before the Board in 2004 and had been denied a home occupation permit to operate a Garage/Distribution Center with State Inspection Center, general repairs and welding based on the fact that the home occupation did not meet the approved definitions under the home occupation ordinance and was not a permitted use. Mr. Musso had been before the Board of Selectmen and the ZBA to appeal that decision on the premise that the property had had a garage business at that location in the past and should be allowed to continue to have that business. It was found that that use had been abandoned and no longer applied. It was also explained at that time that a Home Occupation permit goes with the property owner and not with the property, and once a non-conforming use is discontinued for the period of a year, it is no longer valid.

Mr. Musso explained that he presently has a shop in Brentwood performing fabrication, welding and auto repair and would like to utilize his space at the Main Street location so he could perform work on the fire trucks for the Town as the Brentwood garage is too small. He presently does some work for the Police Department on their vehicles and gives the Town a good break when they do business with him. He would do the same for the Fire Department equipment.

Chief Richard asked what hazardous materials Mr. Musso would need to operate his business, and he replied only acetylene and oxygen.

Mr. Morales stated that if the new Town Center District had reached to his location, then what Mr. Musso was proposing would not be a problem. As it stands at the present time, the Town Center District runs from Freeman Street to Willow Street, but not as far as Mr. Musso's house. If the Town Center District was ever expanded, then perhaps he could operate his proposed business. At the present time, his proposed use did not qualify under the Home Occupation Ordinance; what he proposed was a commercial use in a residential zone, which was not allowed.

The Planning Board did not have license to change the Home Occupation Ordinance, and therefore their only option was for the Planning Board to deny Mr. Musso's request for a Home Occupation. The Planning Board denial would allow Mr. Musso to apply to the ZBA for a use variance, and if he met the hardship section they could approve his application.

Since they could do nothing about it at this hearing, Mr. Morales's suggestion was at a different meeting, the Board revisit the Town Center District and perhaps propose expanding it as far as North Road, and down North Road to Stumpfield Road. He thought it would help increase the tax base for the Town to encourage more small businesses.

Mr. Warren opened the floor to public comment.

Mrs. Nancy Reiss-Hinz and Mr. Gary Hinz, 76 Main Street. Mrs. Reiss-Hinz stated that what Mr. Musso was proposing was a non-conforming use. The Board agreed. Mr. Morales stated that if the Town Center District was

extended, then Mr. Musso could have his business there. Mrs. Reiss-Hinz asked wouldn't it still be a non-conforming use?

Mr. Morales explained that if the Town Center District was extended, Mr. Musso would not need to apply for a home occupation. What he wanted to do would be considered a commercial use in an overlay commercial district and would be allowed. Mrs. Reiss-Hinz asked if the Board passed the expanded Town Center District, would they not be setting themselves (the Town) up for exactly what Stratham is fighting against?

Mr. Hinz stated that he had been involved in the formulation of the Master Plan for the Town and that they (the Townspeople) had decided that they wanted East Kingston to remain a community of houses and farms.

Mr. Morales explained that all the criteria of the Town Center District would need to be met, which are different than the strictly commercial areas. There were stringent regulations, which would need to be conformed to.

Mr. Morales stated that the intent was not to demolish existing houses and put up a strip mall. It was to enable a person to operate a small business at their residence location. He stated that the same noise ordinances for the Town/State would apply if it were a business or a private home.

Mr. Hinz stated that when the previous tenant had operated the garage, they could hear cars revving up, especially in the winter when the leaves were off the trees. He asked if Mr. Musso could have his business at that location, would there be restrictions for lights, hours of operation and noise? Could there be rules instituted for the business that the abutters could live with?

Mr. Warren answered that there were always restrictions as part of the approval. Mr. Morales added that abutter comment and concern was always taken into a consideration for a business or home occupation, and that was why the abutters were notified. That was why when the Planning Board gave approval, it instituted certain conditions the business/home occupation would need to abide by.

Mr. Fred Ford, 5 Depot Road. Mr. Ford stated that there would be no way to control the road noise since Mr. Musso's was located on a state highway. Trucks passed Mr. Ford's house, which was also located on the same road, trucks could be heard when they passed by. Mr. Warren perceived the noise control referred to would be down on the property itself, and not at the road.

Mr. Warren closed the floor to public comment.

Mr. Warren asked if the Board had the authority to place any type of conditional approval for what Mr. Musso wanted to do. Mr. Morales stated it did not, since the request does not meet the approved Home Occupations and would be a non-conforming use in a residential area. The Board should deny Mr. Musso's request and direct him to the Zoning Board to ask for relief. There were five points he would need to pass, and the determination would be up to the Zoning Board.

Mr. Warren entertained a motion.

MOTION: Mr. Morales **MOVED** the Planning Board deny the application for Home Occupation for Mr. Dan Musso and to recommend to the Selectmen **NOT** to issue a home occupation permit based on the home occupation not meeting the approved definition under the home occupation ordinance and not being a permitted use. Mr. Pendell seconded, and the motion passed unanimously.

Mr. Musso was directed that he could obtain an application for appeal to the ZBA at the Town Offices. Mrs. White will contact Mr. Musso and let him know what type of variance to apply for on the application, and the timeframe by which to apply. She will also give him a copy of the points he needs to comply with.

Mr. Warren closed this public hearing. Messers Musso Sr. and Jr. thanked the Board for their time.

Public Hearing for Julian Dunlop, Carmen's Restaurant, 89 Main Street, East Kingston for a request to change the hours of operation and permission for 14 diners on the outside deck (MBL 14-02-05)(PB #08-OA)

Mr. Warren opened the public hearing and recognized Ms. Laura French was in attendance. Ms. French had a letter from Mr. Dunlop to speak as his agent. Mr. Warren turned the floor over to Ms. French to explain what they were requesting of the Board.

Ms. French explained that the business was requesting to change their hours to 6:00 am to 9:00 pm, Monday through Sunday to accommodate the present need to stay open a few more days for the dinner hour. They were also requesting to accommodate serving 14 more people than the original 40 they had received permission for to eat dinner on the deck. It was not clear if persons on the deck were included in the approval for that 40.

Mr. Warren suggested taking the items each in turn, and asked the Board if they had any questions for Ms. French on the change of hours. Mr. Morales was surprised that they had approved such limited hours in the conditions, as the Board usually suggests applicants apply for all the hours they think they could use at the onset so they would not need to come back for a change in hours; obviously that had not been done.

Mr. Warren opened the floor to abutters for the change in hours; there being none, he closed the floor to abutters.

There being no more Board discussion, Mr. Warren entertained a motion.

MOTION: Mr. Morales **MOVED** the Planning Board approve the change in hours for Carmen's Restaurant from Monday through Sunday, 6:00 am through 9:00 pm. Mr. Cacciatore seconded; the vote was unanimous.

The second item to be discussed was the change in seating. The current approval for seating covers 40 persons inside, but does not cover seating on the deck. In order for the restaurant to be able to serve alcohol on the deck, they needed a letter of approval from the Planning Board to acquire permission from the Liquor Commission.

Chief Richard had drawn up a plan that accommodated seating for 14 people on the deck and also allowed for safe egress and ingress in the case of an emergency, both for those on the deck and those inside the building. He had also included two gates on the deck, to eliminate the likelihood of anyone taking an alcoholic beverage off of the deck, which is against the law. There are steps at the North end of the deck that would have a swinging bar that swings out for exit, and a handicap ramp at the South end of the deck, which would have a bar that swings in for access up the ramp and also swings out for egress. At the present time there is a chain, but liquor laws require a gate if alcohol is to be served outside.

Mr. Warren asked what if 14 people were on the deck and it started raining and they had to go inside? Chief Richard stated that the building could accommodate those 14 people as well as the 40 that could be inside and still allow safe egress in an emergency situation.

Mr. Warren opened the floor to abutters.

Mrs. Nancy Reiss-Hinz, 76 Main Street. Mrs. Reiss-Hinz asked since she had not received notice for a hearing for that, if Mr. Dunlop had bypassed the Town in acquiring his liquor license. Mr. Rob Caron, Selectmen, was present and explained that the Town has no control over approving or disapproving a liquor license; that is done through the State. The State *had* notified the Selectmen's Office and the Planning Board that Mr. Dunlop had applied for the license. Mr. Cacciatore interjected since East Kingston is not a dry Town; it was permissible for a business to have a liquor license. Jewett's Store sold beer and wine and could not do so if it were a dry Town.

Mrs. Reiss-Hinz was also concerned in regard to rowdiness and excess noise on the deck at a late hour if people had had too much to drink. Ms. French explained that their establishment has a 3-drink limit for patrons, and they would also be closing at 8:00 pm. Mr. Morales explained there were noise ordinances in place for the Town and if it got too noisy, one could call the police and they would take care of it.

Mr. Warren closed the floor the abutters.

Mr. Warren entertained a Motion for the additional seating.

MOTION: Mr. Morales **MOVED** the Planning Board approve seating for 14 on the deck with the installation of the gates at each end of the deck. Mr. Cacciatore seconded, and the motion passed unanimously.

Mr. Warren closed this public hearing. Ms. French thanked the Board.

Mrs. White informed Ms. French that Mr. Dunlop would be getting a letter from the Board stating the changes in conditions.

Mr. Warren announced that next on the agenda were the Zoning Ordinance and Site Plan and Subdivision Regulation change public hearings. The process would be that he would open each public hearing separately, Mrs. White would read the proposed change, he would open the floor to public comment, close the floor after public comment, and then the Board would make their motion. In the case of the Zoning Ordinances, the motion would be to *Move that revisions to the article be approved as read for placement on the Warrant in March 2009*. In the case of the Site Plan and Subdivision Regulations, the motion would be to *Adopt the change*.

Zoning Ordinance Changes

Public Hearing for East Kingston Zoning Article II – Definitions. Mr. Warren opened the public hearing. Mrs. White read the proposed change.

Amend Article II – DEFINITIONS. Add the following definition:

LIVING SPACE: *Living space shall be defined as any space in the unit which could be used for sleeping, working, dressing, cooking, dining, or other normal life activities, and shall include unfinished as well as finished space. Hallways, closets, storage space, bathrooms, lofts, bedrooms, and all other rooms or areas shall be included in living space. Attic storage spaces with a ceiling height lower than five (5) feet as measured from floor to ceiling shall not be included as living space. (Adopted 3/09)*

Mr. Warren opened the floor for public comment; there being none, he closed the floor.

Mr. Warren asked if there was any Board comment or discussion.

Mr. Caron understood that this change would make someone purchasing a small cape with an unfinished second floor be taxed for the unfinished attic as if it were finished. Mr. Morales stated it only defined “living space” and that Avitar made their calculations separately from anything that the Town denotes. Mrs. White offered that this definition was taken from the definition of living space in the elderly housing ordinance, but there had never been a definition for that included in the *Definitions*. She reported that this definition of living space would be referred to in the living area configuration for an accessory dwelling unit (in-law apartment) as well.

Dr. Robinson explained that the definition of living space had come about in regard to the 55 and over housing developments. The intent of the over 55 housing was that they would be smaller homes since it was two people downsizing. One developer had built overly large homes with an unfinished top floor that occupants could finish themselves at a later date. This made it a much larger house than was ever intended for over 55 housing, and as a result, the Board thought it necessary to clarify what constituted actual living space. She felt this definition was particular to the ordinances and would have nothing to be with the actual calculation of square footage by Avitar.

Mr. Warren asked the Board for a Motion.

MOTION: Mr. Morales **MOVED** that revision to the article be approved as read for placement on the Warrant in March 2009. Dr. Marston seconded, and the motion passed unanimously.

Mr. Warren closed the public hearing.

Public Hearing for East Kingston Zoning Article VII-B. – General Provisions. Mr. Warren opened the public hearing. Mrs. White read the proposed change.

Amend Article VII-B. – GENERAL PROVISIONS. Removal of fee amount and placement of fee on newly created separate fee schedule.

The following General Provisions shall apply:

- B. *All excavation operations shall be carried out in accordance with RSA 155-E. The regulator is the Planning Board and ~~the permit fee is \$50.00~~ there shall be a permit fee. (see fee schedule) (Amended 3/96, 3/09)*

Mr. Warren opened the floor for public comment; there being none, he closed the floor.

Mr. Warren asked the Board for a Motion.

MOTION: Mr. Morales **MOVED** that revision to the article be approved as read for placement on the Warrant in March 2009. Dr. Marston seconded, and the motion passed unanimously.

Mr. Warren closed the public hearing.

Public Hearing for East Kingston Zoning Article VIII-F.2. – Uses Permitted. Mr. Warren opened the public hearing. Mrs. White read the proposed change.

Amend Article VIII-F.2. – USES PERMITTED. Add reference to LIVING SPACE definition.

- 2. *Living Area Configuration. Total living area floor space for an accessory dwelling unit shall not exceed 500 square feet, and shall consist of not more than one (1) bedroom, one (1) kitchen/living area, and one (1) bathroom/water closet. The accessory dwelling unit shall be clearly secondary to the principle residence. (Refer to Living Space Definition - Page 1) (special exception condition) (Amended 3/09)*

Mr. Warren opened the floor for public comment; there being none, he closed the floor.

Mr. Warren asked the Board for a Motion.

MOTION: Mr. Morales **MOVED** that revision to the article be approved as read for placement on the Warrant in March 2009. Dr. Marston seconded, and the motion passed unanimously.

Mr. Warren closed the public hearing.

Public Hearing for East Kingston Zoning Article XVI-F – Home Occupations. Mr. Warren opened the public hearing. Mrs. White read the proposed change.

Amend Article XVI-F. – HOME OCCUPATIONS. Removal of fee amount and placement of fee on newly created separate fee schedule.

- F. *~~The charge for an annual permit shall be not less than \$50.00~~ There shall be an annual permit fee (see fee schedule) charged to cover the costs for Board of Selectmen review, administration and enforcement of the ordinance. (Amended 3/96, 3/09)*

A minimum annual fee ~~of \$25.00~~ (see fee schedule) shall be charged to those home occupations identified as “invisible” to defray the administrative costs of annual review and Board of Selectmen oversight. (Adopted 3/97, Amended 3/09)

Mr. Warren opened the floor for public comment; there being none, he closed the floor.

Mr. Warren asked the Board for a Motion.

MOTION: Mr. Morales **MOVED** that revision to the article be approved as read for placement on the Warrant in March 2009. Mr. Cacciatore seconded, and the motion passed unanimously.

Mr. Warren closed the public hearing.

Public Hearing for East Kingston Zoning Article XVII.A.5. – Building Inspector and Permits. Mr. Warren opened the public hearing. Mrs. White read the proposed change.

Amend Article XVII.A.5 – BUILDING INSPECTOR AND PERMITS. Removal of fee amount and placement of fee on newly created separate fee schedule.

5. *Any person constructing or reconstructing a sanitary system must obtain a permit from the Building Inspector. A minimum fee ~~of \$50.00~~ (see fee schedule) shall be charged for the initial review of each septic system plan, and subsequent reviews by the Building Inspector or Board of Selectmen for revisions or modifications to the original plan shall incur the standard hourly administrative charge. (Amended 3/99, 3/06, 3/09)*

A minimum fee ~~of \$25.00~~ (see fee schedule) shall be charged for the permit. (Amended 3/06, 3/09)

Mr. Warren opened the floor for public comment.

Mr. Curtis Jacques, 43 North Road, East Kingston. Mr. Jacques asked what the fees were. Mrs. White read that the minimum fee was \$50 and a \$25 fee shall be charged for the permit.

There being no more public comment, Mr. Warren closed the floor.

Mr. Warren asked the Board for a Motion.

MOTION: Mr. Morales **MOVED** that revision to the article be approved as read for placement on the Warrant in March 2009. Dr. Marston seconded, and the motion passed unanimously.

Mr. Warren closed the public hearing.

Subdivision Regulation Changes

Public Hearing for East Kingston Subdivision Regulation Section X – Soils and Wetland Data Requirements. Mr. Warren opened the public hearing. Mrs. White read the proposed change.

Amend Section X – SOILS AND WETLAND DATA REQUIREMENTS – Update Figure 2 - Standards year.

- *1998 2004 Field Indicators for Identifying Hydric Soils for New England*

Mr. Warren opened the floor for public comment; there being none, he closed the floor.

Mr. Warren asked the Board for a Motion.

MOTION: Mr. Morales **MOVED** that the Planning Board adopt the Subdivision Regulation change as read. Dr. Marston seconded, and the motion passed unanimously.

Mr. Warren closed the public hearing.

Public Hearing for East Kingston Subdivision Regulation Section XI.B. – The Final Plat. Mr. Warren opened the public hearing. Mrs. White read the proposed change.

Amend Section XI.B – THE FINAL PLAT. Addition of a new number 8.

8. ***And any other notations the Planning Board shall deem as necessary. (Adopted 9/18/08)***

Mr. Warren opened the floor for public comment; there being none, he closed the floor.

Mr. Warren asked the Board for a Motion.

MOTION: Mr. Morales **MOVED** that the Planning Board adopt the Subdivision Regulation change as read. Dr. Marston seconded, and the motion passed unanimously.

Mr. Warren closed the public hearing.

Public Hearing for East Kingston Subdivision Regulation Section XVII.B. – Procedure for Obtaining Approval for Subdivision. Mr. Warren opened the public hearing. Mrs. White read the proposed change.

Amend Section XVII.B – PROCEDURE FOR OBTAINING APPROVAL FOR SUBDIVISION. Removal of fee amounts and placement of fees on newly created separate fee schedule.

Schedule of Administrative Fees. *NH RSA 676:4 provides for certain fees to be charged an applicant. Applicants to the East Kingston Planning Board shall defray administrative costs to include, but not be limited to: (Amended 9/18/08)*

The greater of – a. Application fee, or

b. Fee per newly created lot

- ***Abutter Notification (each)***
- ***Newspaper Legal Notice Fee***
- ***Recording fee (per trip)***
- ***Applicable Registry fee per page***
- ***Test pit fee***
- ***Any engineering or professional costs***

All fees shall be made payable to Town of East Kingston. (see fee schedule)

Mr. Warren opened the floor for public comment; there being none, he closed the floor.

Mr. Warren asked the Board for a Motion.

MOTION: Mr. Morales **MOVED** that the Planning Board adopt the Subdivision Regulation change as read. Dr. Marston seconded, and the motion passed unanimously.

Mr. Warren closed the public hearing.

Public Hearing for East Kingston Subdivision Regulation Section XVII.C.1. & 5. – Submission Requirements - Subdivision. Mr. Warren opened the public hearing. Mrs. White read the proposed change.

Amend Section XVII.C.1. & 5. SUBMISSION REQUIREMENTS – SUBDIVISION – Amend number of copies required; removal of fee amount and placement of fee on newly created separate fee schedule.

Subdivision Requirements – Subdivision

1. ~~Five~~ **Six** full sized copies of the engineered plan, ten 11 X 17" copies of all plans, and ~~five~~ **six** copies of road profiles for new streets to a scale of not more than 100 feet to the inch. (Amended 1/18/01, 7/15/04, **9/18/08**)
5. A check made out to the Town of East Kingston, NH ~~for \$25.00 per perc test~~ (see fee schedule) must be presented when the date is established for a perc test. (Amended **9/18/08**)

Mr. Warren opened the floor for public comment; there being none, he closed the floor.

Mr. Warren asked the Board for a Motion.

MOTION: Mr. Morales **MOVED** that the Planning Board adopt the Subdivision Regulation change as read. Dr. Marston seconded, and the motion passed unanimously.

Mr. Warren closed the public hearing.

Public Hearing for East Kingston Subdivision Regulation Section XVII.D.2. & 9.b. – Submission Requirements – Lot Line Adjustment. Mr. Warren opened the public hearing. Mrs. White read the proposed change.

Amend Section XVII.D.2. & 9.b. - SUBMISSION REQUIREMENTS – LOT LINE ADJUSTMENT. Amend number of copies required.

Subdivision Requirements – Lot Line Adjustment (Added 11/21/02))

2. ~~Five~~ **Six** full sized copies of the engineered plan and ten 11 X 17" copies of all plans with information as outlined on Lot Line Adjustment Application Checklist (Appendix G). (Amended 1/18/01, 7/15/04, **9/18/08**)
- 9.b. ~~Five~~ **Six** full sized and ten 11x17" copies of the Final Plan, including all pertinent information as required under section D.2. above. (Amended **9/18/08**)

Mr. Warren opened the floor for public comment; there being none, he closed the floor.

Mr. Warren asked the Board for a Motion.

MOTION: Mr. Pendells **MOVED** that the Planning Board adopt the Subdivision Regulation change as read. Mr. Morales seconded, and the motion passed unanimously.

Mr. Warren closed the public hearing.

Public Hearing for East Kingston Subdivision Regulation Section XVII.10. – Procedure for Obtaining Approval for Subdivision. Mr. Warren opened the public hearing. Mrs. White read the proposed change.

Amend Section XVII.10. – PROCEDURE FOR OBTAINING APPROVAL FOR SUBDIVISION - Removal of fee amounts and placement of fees on newly created separate fee schedule.

10. Lot Line Adjustment fees shall include:

- **Application fee**
- **Abutter Notification (each)**
- **Newspaper Legal Notice Fee**
- **Recording fee (per trip)**
- **Applicable Registry fee per page**
- **Any engineering or professional costs**

All fees shall be made payable to Town of East Kingston. (see fee schedule) (Amended 9/18/08)

Mr. Warren opened the floor for public comment; there being none, he closed the floor.

Mr. Warren asked the Board for a Motion.

MOTION: Mr. Morales **MOVED** that the Planning Board adopt the Subdivision Regulation change as read. Dr. Marston seconded, and the motion passed unanimously.

Mr. Warren closed the public hearing.

Public Hearing for East Kingston Subdivision Regulation Appendix A – Application for Subdivision Approval. Mr. Warren opened the public hearing. Mrs. White read the proposed change.

Appendix A – APPLICATION FOR SUBDIVISION APPROVAL – Add checkbox for State Subdivision Approval attachment.

For lots created which are less than 5 acres, please attach a copy of the State Subdivision Approval.

Mr. Warren opened the floor for public comment; there being none, he closed the floor.

Mr. Warren asked the Board for a Motion.

MOTION: Mr. Morales **MOVED** that the Planning Board adopt the Subdivision Regulation change as read. Dr. Marston seconded, and the motion passed unanimously.

Mr. Warren closed the public hearing.

Public Hearing for East Kingston Subdivision Regulation Appendix B – Application for Lot Line Adjustment Approval. Mr. Warren opened the public hearing. Mrs. White read the proposed change.

Appendix B – APPLICATION FOR LOT LINE ADJUSTMENT APPROVAL – Add checkbox for State Subdivision Approval attachment.

For lots created which are less than 5 acres, please attached a copy of the State Subdivision Approval.

Mr. Warren opened the floor for public comment; there being none, he closed the floor.

Mr. Warren asked the Board for a Motion.

MOTION: Mr. Morales **MOVED** that the Planning Board adopt the Subdivision Regulation change as read. Dr. Marston seconded, and the motion passed unanimously.

Mr. Warren closed the public hearing.

Public Hearing for East Kingston Subdivision Regulation Appendix F – Subdivision Proposal Checklist. Mr. Warren opened the public hearing. Mrs. White read the proposed change.

Appendix F – SUBDIVISION PROPOSAL CHECKLIST – Clarify Shoreline/Shoreland Protection Act; add State Subdivision Approval checkline.

**APPENDIX F
SUBDIVISION PROPOSAL CHECKLIST**

_____ ***Shoreline-Shoreland Protection Act? (RSA 483-B)***
_____ ***State Subdivision Approval (if under 5 acres)***

Mr. Warren opened the floor for public comment; there being none, he closed the floor.

Mr. Warren asked the Board for a Motion.

MOTION: Mr. Morales **MOVED** that the Planning Board adopt the Subdivision Regulation change as read. Dr. Marston seconded, and the motion passed unanimously.

Mr. Warren closed the public hearing.

Public Hearing for East Kingston Subdivision Regulation Appendix G – Lot Line Adjustment Application Checklist. Mr. Warren opened the public hearing. Mrs. White read the proposed change.

Appendix G – LOT LINE ADJUSTMENT APPLICATION CHECKLIST – Add State Subdivision Approval checkline.

**APPENDIX G
LOT LINE ADJUSTMENT APPLICATION CHECKLIST**

_____ **State Subdivision Approval (if under 5 acres)**

Mr. Warren opened the floor for public comment; there being none, he closed the floor.

Mr. Warren asked the Board for a Motion.

MOTION: Mr. Morales **MOVED** that the Planning Board adopt the Subdivision Regulation change as read. Dr. Marston seconded, and the motion passed unanimously.

Mr. Warren closed the public hearing.

Site Plan Regulation Changes

Public Hearing for East Kingston Site Plan Regulation Section IV.B.6. – Submission Requirements.

Mr. Warren opened the public hearing. Mrs. White read the proposed change.

Amend Section IV-B.6. - SUBMISSION REQUIREMENTS - Amend number of copies required.

5. ~~Five~~ **Six** (6) prints of each plan sheet (blue or black line) (Amended 7/14/04, **9/18/08**)

Mr. Warren opened the floor for public comment; there being none, he closed the floor.

Mr. Warren asked the Board for a Motion.

MOTION: Mr. Morales **MOVED** that the Planning Board adopt the Site Plan Regulation change as read. Dr. Marston seconded, and the motion passed unanimously.

Mr. Warren closed the public hearing.

Public Hearing for East Kingston Site Plan Regulation Section IV.D. – Submission Requirements. Mr. Warren opened the public hearing. Mrs. White read the proposed change.

Amend Section IV-D. – SUBMISSION REQUIREMENTS–Schedule of Administrative Fees - Removal of fee amounts and placement of fees on newly created separate fee schedule.

- D. **Schedule of Administrative Fees.** NH RSA 676:4 provides for certain fees to be charged an applicant. Applicants to the East Kingston Planning Board shall defray administrative costs to include, but not be limited to: (**Amended 9/18/08**)

Application fee:

- *The greater of – a. each lot/parcel;
b. each dwelling unit; or
c. each elderly housing development bedroom.*
- *Application fee for non-residential site plan*
- *Abutter Notification (each)*
- *Newspaper Legal Notice Fee*
- *Recording fee (per trip)*
- *Applicable Registry fee per page*
- *Test pit fee*
- *Any engineering or professional costs*

All fees shall be made payable to Town of East Kingston. (see fee schedule)

Mr. Warren opened the floor for public comment; there being none, he closed the floor.

Mr. Warren asked the Board for a Motion.

MOTION: Mr. Morales **MOVED** that the Planning Board adopt the Site Plan Regulation change as read. Dr. Marston seconded, and the motion passed unanimously.

Mr. Warren closed the public hearing.

Public Hearing for East Kingston Ordinance and Regulation Book. – Creation of a new Fee Schedule. Mr. Warren opened the public hearing. Mrs. White read the proposed Fee Schedule.

**Fee Schedule
(Adopted 9/18/08)**

Excavation fee	\$ 50.00
Home Occupation annual fee	
Regular	\$ 50.00
Invisible	\$ 25.00
Septic construction permit fee	\$ 25.00
First review of septic system plan	\$ 50.00
subsequent reviews	\$ 20.00 @ hour
Subdivision Approval fees	
Application fee	\$ 40.00
Fee per newly created lot	\$ 40.00
Abutter notification (each)	Actual postage cost + 10%
Newspaper Legal Notice Fee	cost of newspaper legal notice + 10%
Recording fee (per trip)	\$ 20.00
Applicable Registry fee per page	per page / current fee
Test pit	\$ 25.00 each
Perc Test fee – each	\$ 25.00
Lot Line Adjustment Fees	
Application Fee	\$ 40.00
Newspaper Legal Notice Fee	cost of newspaper legal notice + 10%
Abutter notification (each)	Actual postage cost + 10%
Recording fee (per trip)	\$ 20.00
Applicable Registry fee per page	per page / current fee
Site Plan Review Submission Requirement fees	
Application fee:	
The greater of –	
a. each lot/parcel	\$ 40.00
b. each dwelling unit	\$ 40.00
c. each elderly housing development bedroom	\$ 20.00
<i>\$100.00</i>	
Abutter notification (each)	Actual postage cost + 10%
Newspaper Legal Notice Fee	Cost of newspaper legal notice + 10%
Recording fee (per trip)	\$ 20.00
Applicable Registry fee per page	per page / current fee
Test pit	\$ 25.00 each

Mr. Warren opened the floor for public comment; there being none, he closed the floor.

Mr. Warren asked since the Town was a not-for-profit entity, was he to assume that the 10% was for time? Mrs. White answered that the 10% was not for time; it was to help defray the costs of the paper, envelopes, printer and copier toner, etc. Mr. Warren thanked her for the explanation and had no more questions.

There being no other questions from the Board, Mr. Warren asked for a Motion.

MOTION: Mr. Morales **MOVED** that the Planning Board adopt the newly created fee schedule as read. Dr. Marston seconded, and the motion passed unanimously.

Mr. Warren closed the public hearing.

Mrs. White passed around the sheets to the Board members for their signature to submit to the Town Clerk.

Discussion with John Mulvey and prospective tenant, Captain George Tsaltas, in regard to a proposed used car sales business at 17 Haverhill Road, East Kingston (EKP#03-OE).

Mr. Warren opened the discussion and recognized that Mr. John Mulvey and his prospective tenant Captain George Tsaltas were in attendance. He explained that this meeting was for the Planning Board to ascertain if a full site plan review would be necessary for the change in tenancy, and asked Mr. Mulvey to review why he was before the Board.

Mr. Mulvey explained that his property is divided into several parts; a residence, hair salon, collision repair and a used car lot in front. He would like to rent the used car lot to Capt. Tsaltas with a small office space in the garage, under the same stipulations the Board had set forth for his last tenant operating the same type of business at that location. Mr. Tsaltas would operate under the name GT at Sea Charters LLC Auto Sales. It was ascertained that Mr. Mulvey's original conditions of approval state he can have up to 20 cars, total.

Capt. Tsaltas explained that he would not be doing any repairs at the location other than small items like changing light bulbs, as he did not want to get involved with major repairs of any type. He would not be operating an inspection station at the location, but would have his cars inspected elsewhere so he could put install dealer plates for test drives. Capt. Tsaltas stated that when he applies for his dealer license, the Board of Selectmen would get a letter from the State asking if they have any objections.

Chief Richard asked Capt. Tsaltas if he intended on keeping any sort of flammable materials on the premises, and Capt. Tsaltas stated he would not.

Mr. Warren opened the floor to abutter comment; there being none, he closed the floor.

The proposed Conditions of Approval are:

Hours of operation will be 7am to 7pm, Monday thru Saturday.

There will be no maintenance performed on the premises.

There shall be no flammable fluids or other hazardous chemicals stored on site.

Business shall conform to a bi-annual Fire Department inspection.

Mr. Mulvey will provide a copy of the lease for the file.

There shall be no additional lighting.

Any flammable fluids or other hazardous chemicals to be used will necessitate MSDS forms to be supplied to the Fire Dept.

No vehicles of any kind shall be parked in front of the hydrant.

The Board of Selectmen shall approve any signage.

Mr. Warren asked for a motion.

MOTION: Mr. Pendell **MOVED** the Planning Board waive the requirements for a full site plan review for GT at Sea Charters LLC Auto Sales based on the information provided, and approve the tenancy for Capt. Tsaltas with the nine conditions of approval as noted. Mr. Morales seconded, and the motion carried unanimously.

Mrs. White informed Mr. Mulvey and Capt. Tsaltas they would be receiving a letter and the conditions of approval in the mail.

Mr. Mulvey and Capt. Tsaltas thanked the Board for their time.

Mr. Warren closed this discussion.

Proposed changes for Subdivisions Regulations by Chief Richard

Mr. Warren turned the floor over the Chief Richard to explain his changes to the Board. Chief Richard referred to Page 4 of the changes, paragraph 2. He explained that he would like to insert that paragraph in the Building Codes and require heat detectors be installed in all new construction or additions/renovations per NFPA 72 National Fire Alarm Code and to ensure they were being installed properly. It also states that the heat detectors shall be interconnected with other detectors in the dwelling, and that all installation shall be approved by the Fire Chief. *Refer to the proposed ordinance changes attached to these minutes for the exact wording.*

Board discussion ensued and it was determined that this proposed verbiage should be inserted in the ordinances in two places; in the Building Codes, Section One as new subparagraph d. and in the Zoning Ordinances Article VII, General Provisions as new Paragraph G.

Curtis Jacques, 43 North Road, East Kingston. Mr. Jacques stated he tried to keep everything up to date and as per code to protect his tenants, and asked how he could know if what he had was okay. Chief Richard stated he would come and look at what he has to see if everything was okay.

Chief Richard then reviewed his other proposed change to the ordinances. He had submitted a totally rewritten Paragraph T of Section VII – General Requirements of the Subdivision of Land to replace the existing subsection Paragraph 1 – Fire Ponds and subsection Paragraph 2 – Cisterns. He did this to clarify and simplify the existing subsection, eliminating repetition and updating the NFPA codes. Chief Richard explained that East Kingston has plenty of fire ponds and cisterns at the present time, and thought it wise not to require the installation of more at this time.

He reviewed that at the present time, the Town has 36 water sources, and that the Town is responsible for the maintenance on all the dry hydrants and fire ponds. If some additional sources were to be ascertained by the Fire Department to be necessary, his thought was for a fire well, which would be easier to install and perhaps less expensive than installation of a fire pond or cistern. *Refer to the proposed ordinance changes attached to these minutes for the exact wording.*

Mr. Cacciatore asked if an abandoned dug well could be used as a secondary water source. Chief Richard replied that in some circumstances it might; swimming pools could even be used in certain circumstances. But to be able to be listed as an approved primary source of water, the water source should be able to supply 30,000 gallons of water.

Chief Richard stated that he would also like to see developers have the opportunity to install sprinkler systems in new construction as an alternative to installing cisterns or fire ponds, with the approval of the Planning Board and the Fire Department. If such sprinkler system was approved, an assessment fee would be paid into an account to help maintain existing Town water sources.

The Board thought Chief Richard's updates were excellent and thought they should be presented at a public hearing in October to be placed on the warrant.

BOARD BUSINESS

Union Cemetery Lot Line Adjustment. Mrs. White informed the Board that a motion to waive Town fees for this lot line adjustment, as it was a piece of Town-owned property, was necessary before it came up before the Board on October's agenda. Mr. Warren asked for a motion.

MOTION: Mr. Pendell **MOVED** the Planning Board waive the Town fees associated with the lot line adjustment for the Union Cemetery. Mr. Morales seconded, and the motion carried unanimously.

Trash Pick-Up for the Elderly Housing Developments. Mr. Pendell reviewed that the Selectmen had reviewed the possibility of the Town picking up the trash for the elderly housing developments. Based on that, they came up with a plan and wanted to present it to the Planning Board, as the Planning Board would need to approve any changes.

Mr. Rob Caron, Selectmen, was in attendance to give a short presentation on a study that had been conducted which reviewed the impact on the Town of providing trash pick-up to the elderly housing developments. He did start to present his information, but Mr. Morales suggested that since the hour was late, the presentation be postponed until the meeting in October when the Board would be conducting their annual review of the Elderly Housing Ordinance. He suggested that a series of steps may need to be developed to institute that change, and that the Board should have as much background information necessary to put together those steps.

He suggested that the content experts who helped draft the elderly housing ordinance be invited to attend and give their input as the present Board is fairly new and may not understand why the ordinance was drafted as it was. Mr. Morales acknowledged that Dr. Marston was one of the content experts, along with several others. Mrs. White will invite Mr. Roby Day, Mrs. Cathy Belcher, and Mr. Richard Smith, Sr. to attend October's meeting.

Mr. Warren asked for a motion.

MOTION: Mr. Morales **MOVED** the Planning Board table the discussion of trash pick-up at the elderly housing developments until October. Mr. Cacciatore seconded, and the motion carried unanimously.

IZIP Application and Letter. Mrs. White announced to the Board that they had been approved for the IZIP grant to help draft the Workforce Housing Ordinance. She offered much thanks to Dr. Jill Robinson for her work on the application. Mrs. White explained that a letter from the Planning Board to the Board of Selectmen asking them to accept the grant was necessary and that a motion would be needed to that effect.

Mr. Warren asked for a motion.

MOTION: Mr. Morales **MOVED** the Planning Board approve sending a letter to the Selectmen asking them to accept the funds for the grant. Mr. Pendell seconded, and the motion carried unanimously.

HANDOUTS TO THE BOARD

- *Copy of the Elderly Housing Ordinance* for review at the October meeting.
- *Minutes from 2006 and 2007* showing what had been covered at those annual reviews of the Elderly Housing Ordinance.
- *Information/Application from the RPC* for a charitable foundation grant to fund local energy committees.

Mr. Warren asked if there was any other Board discussion. There was none and Mr. Warren closed meeting at 9:30pm.

Respectfully submitted,

Barbara A. White
Recording Secretary

Ed Warren
Chairman

Minutes approved October 16, 2008

17 July minutes were approved with slight revisions.

21 August minutes were approved as submitted.