

**TOWN OF EAST KINGSTON, NH  
PLANNING BOARD MEETING MINUTES  
September 21, 2000**

**FILE**

**AGENDA**

- 7:15 Judy Manning-Leonard – 2 Fox Hollow Court Home Occupation – Discussion
- 7:30 Dick Cook – Elderly Housing Ordinance - Discussion
- 7:45 Monique Waldron – Kensington Subdivision - Discussion

**Members attending:** Richard A. Smith, Sr. – Chairman, Edward C. Johnson – Vice Chairman, John L. Filio – Ex-officio, Beverly A. Fillo, and Alternate David Morse.

Absent: Dr. Robert Marston and Alternate Members Peter A. Riley and Robert Nigrello.

**Others attending:** Lawrence K. Smith – Conservation Commission Chairman, Glenn P. Clark – Building Inspector, Kent Shepherd – Deputy Building Inspector, Dick Cook, Eva Smith, Deb Merchant and Sarah Campbell – RPC Planner (8:15 p.m.).

Chairman Smith opened this September 21, 2000 planning board meeting at 7:03 with the role call. Noting the absence of one regular member (Dr. Marston), he designated Alternate David Morse to participate in any voting matter before the board.

**Planning Board Minutes:** The Board reviewed minutes dated August 17, 2000. Those who attended that meeting and who were eligible to vote on their acceptance were Dr. Marston, Mr. Filio and Mr. Morse. Noting not enough members were present (that attended the August meeting) to meet the voting quorum requirements, Chairman Smith tabled the minutes' acceptance until the quorum requirements could be met.

**Work Session:** A work session was scheduled for October 12, 2000 at 7:00 p.m. to be held in the Conservation Commission office located at the Town Offices. The agenda will include discussion of the Elderly Housing Ordinance. Mr. Cook was invited to attend.

**Incoming Correspondence:** Chairman Smith acknowledged the following incoming correspondence:

1. NHDOT – Driveway application notification for property located on Route 108 – Monique & Terrence Waldron 285 North Haverhill Road.

Chairman Smith noted that the application indicates the property owners are proposing to install a driveway on land located in East Kingston that will access a 22-stall horse barn on land located over the town line in Kensington. He further stated that the property owners currently have a subdivision application before the Kensington Planning Board regarding this parcel. The town line would serve as the boundary line for this subdivision. Members requested more information about the subdivision be disclosed. It was noted that Ms. Waldron was scheduled to meet with the board at 7:45 this evening thus the issue was tabled until then.

2. Letter from Sarah Campbell – RPC Planner – Resignation from Rockingham Planning Commission. (Boo h o o...big crocodile tears from everyone!!!)

**Melanson Subdivision Update:** The recording secretary reported that the building inspector has indicated that the bounds for the Melanson subdivision on Joslin Road have been installed and approved. Conditional approval of the plan was granted on this 4-lot subdivision on July 20, 2000. Four other conditions are remaining before the plan can be signed and recorded. They are:

1. A notation be placed on the plan stating the distance from the water hole to the town line and to the driveway of MBL# 17-01-06 to demonstrate the 1200-ft. fire suppression requirement can be met.
2. State subdivision approval be received.
3. A notation be placed on the plan outlining the preservation of the existing stonewall and trees along the road frontage of each lot.
4. Show and label Greystone Road, Giles Road and the Exeter Hampton easement on the vicinity plan.

Mr. Morse stated that he has witnessed work being done to those parcels already (i.e. bulldozer/backhoe work). It was noted that building permits would not be issued until the plan was recorded at the Registry of Deeds.

**Covenants:** Discussion regarding the subdivision covenants entitled where the issue was raised as to whether the planning board or its designee has the right to attend homeowner association meetings concerning amendments of a planning board approved covenant. It was expressed that it would be in the town's best interest to monitor such amendments, as the covenants were a part of the original subdivision. It was also noted that the selectmen's office researched the topic with the New Hampshire Municipal Association and reported that homeowner association meetings have a right to restrict their meetings to only the members of their association.

It was then stated that the planning board does not have anything to do with the covenants – that is between the homeowner association and the homeowner and not the town. The planning board gives a copy of the proposed covenant to town counsel for review then it goes back to the developer. The homeowner association has the right to amend and regulate their rules.

**Judy Manning-Leonard – 2 Fox Hollow Court Home Occupation – Discussion:** Chairman Smith opened the meeting to conceptual discussion with Judy Manning-Leonard at 7:20 p.m. Mrs. Manning-Leonard indicated that she is a music teacher in West Newbury and is interested in offering part-time private music lessons to some of her students. She would limit the number of students per day to two or three giving ½ hour lessons in flute or piano – up to ten lessons per week.

At the inquiry of the board she stated that all her students would either drive or be driven to her home and park in her driveway. She will display no sign, but would like to advertise in the newspaper. There will be no chemical or outside amplifiers.

It was noted that Mrs. Manning-Leonard is before the board conceptually to see if her proposal falls under the invisible clause of the home occupation ordinance: Article 10.6 which states:

*...Business owners who can demonstrate that they do not create any traffic, visual, or other impacts on the neighborhood (above and beyond those impacts resulting from the residential use of the property) may be exempted by the Selectmen from these permitting procedures....*

It was questioned whether or not her proposal is allowed under the covenants assigned to her property. Members stated that it is not up to the board to govern the covenants only the ordinances.

Mrs. Manning-Leonard further explained that she would like to provide music instruction to one student at a time between the hours of 4:00 p.m. and 8:00 p.m. She stated that there may be one to two cars in the driveway at a time in relation to this business.

Mr. Fillio stated that he does not believe a vehicle or two in the driveway violates the invisible clause restriction. “above and beyond those impacts from the residential use of the property...” Having a few vehicles in the driveway is consistent with the normal residential use of the property.

**MOTION:** Mrs. Fillio motioned to recommend the Selectmen exempt the music instruction business operated by Judy Manning-Leonard of 2 Fox Hollow Court from the permitting procedures based on the board's determination that this is a non-visible entity that does not create any traffic, visual or other impacts on the neighborhood (above and beyond those impacts resulting from the residential use of the property). Mr. Morse seconded.

**DISCUSSION:** Mr. Fillio informed Mrs. Manning-Leonard that the invisible clause criteria means there can be no signs for the business on the premises, nor any sign that a business exists from the exterior of the building. Furthermore, she will be notified annually to see if any changes or expansions of the business have taken place. If there is any variation from these conditions then she must re-apply for another home occupation permit.

Mrs. Fillio then requested Ms. Manning-Leonard look at her property card (handed to her) to verify if this is what the property looks like today.

Mrs. Manning-Leonard replied that this picture was taken prior to when she purchased the property but, other than an addition of a porch, it looks pretty much the same.

Mrs. Fillio stated that this should be made part of the record as it provides the board with the documentation it needs to monitor the status of the business – and documentation as to what the property looked like at the time of the application.

Mrs. Manning-Leonard asked if she would be permitted to hold a couple recitals at her home. Members suggested she hold parties instead, as parties are consistent with the residential use of the property.

Chairman Smith called the vote. The motion carried 5-0.

Mrs. Manning-Leonard was then informed that the final approval for this home occupation would be at the discretion of the Board of Selectmen and that it was probable this issue would be placed on their next agenda. It was suggested that she contact the Selectmen's office for that confirmation and for an appointment if she wished to be present when the issue was addressed.

**Dick Cook – Elderly Housing Ordinance – Discussion:** Chairman Smith opened discussion with Dick Cook regarding the Elderly Housing Ordinance at 7:36 p.m.

Mr. Cook presented the board with a conceptual drawing of an elderly housing community located in the light industrial /residential zone on Haverhill Road. He indicated that this is totally conceptual, as no definite plans have been made yet. He stated that he feels this type of proposal (elderly housing) is beneficial to the town and that his previous plans to develop the light industrial park were received negatively by abutters – this is a good compromise.

He stated that he pursued this issue further by contacting the US Department of Housing and Urban Development (spoke with Mark Seltzer– project manager) and he collected information about federal regulations for elderly housing. He said that the federal regulations are too restrictive and costly. Should he have to go the federal route then the project is dead in the water before it even begins, as it would be considered a non-profit business with a 40-year payback period.

He continued to explain that the next step he took was meeting with the State. Both he and Professional Engineer Dennis Quintal met with James Gill of the NHDES Water Division (water supply) and Gino Infascelli, also from NHDES (wetlands inspector) to discuss conceptual plans to develop an elderly housing or retirement community on Haverhill Road. It was agreed that a road could be placed around the perimeter of the property offering access points at Ashlie Road and Haverhill Road (2 on Haverhill Road). The wetlands official said there would be no problem with minor wetland crossings and ponds (as long as the ponds met the State's criteria). The water supply official indicated that individual wells would not be allowed for such a project – a community system must be installed. Such a system could be comprised of two wells with a centralized water system.

He went on to say that Dennis Quintal is currently working on another project that requires a community water system, thus he will have some first hand knowledge of the design and requirements for this project. He reiterated that this is a golden opportunity for the town though this is not a great payback type of development for the developer. He asked that the planning board and he work together as they develop the plan. He would make regular reports to the board on its progress but it is important that the project not be stopped in mid flow to fix a regulation. The board would need to compromise. Suggestions from the townspeople and the board could be presented during the process and implemented into the plan.

Questions arose concerning the volume of water flow needed for this type of development as well as who the abutters of the parcel are.

Mr. Cook replied that the State's regulations would govern the water flow and depth – they must meet State requirements. Abutters to the property include: the post office, old Route 108, Eastman property, Dewey Bowley's pit, the river, and Ashlie Road residents. The total acreage is about 36 acres and he stated he would like to keep as much of it undeveloped as possible as it is considered an open corridor for wildlife. The development would still have amenities like a water and pump station, maintenance shed, recreation center, and homes. Association rules would also be written.

When asked about sidewalks, Mr. Cook stated that the State says if a 24-ft. wide road is used than a line can be painted around its edge to create a walking area. He added that he also wants to include nature paths throughout the property. He said that there is not much State funding out there but he would look into it further.

Further inquiry prompted the following responses from Mr. Cook: it has not been determined whether the units will be sold or rented – possibly both. Age restriction covenants would be written to state all residents must be at least 55 years of age. The actual size of the units has not yet been determined though it is believed older people require less living space.

It was then questioned whether or not the Elderly Housing Ordinance could be moved out of the zoning section and into its own regulation section as this would give the planning board the authority to waive certain requirements based on the configurations of the land. Waivers needed from the zoning regulations must be directed to the ZBA in which the requirements are much more stringent and harder to obtain. Members suggested this question be directed to Sarah Campbell when she is present.

Mr. Cook again stated that he wants to work closely with the board clarifying the regulations as they go along and meeting regularly.

**Colanton Update:** The board is anticipating a site plan review application from Francis Colanton in time for the October 19<sup>th</sup> meeting. It was noted that joint meetings with the towns of Kingston and East Kingston should have been scheduled. The next Kingston Planning Board meeting concerning this project is scheduled for October 17<sup>th</sup> (two days before East Kingston's meeting).

Sarah Campbell entered the meeting (8:15 p.m.).

It was also noted that the Kingston Planning Board is considering rezoning the Clay Pond Development and Henshaw properties as agricultural only – not residential.

**Maplevale Property:** It was noted that developers John Flynn and Larry Erickson & Jim Mower have inquired about purchasing the Maplevale Farm property. Mr. Flynn indicated an interest in developing both conventional housing and elderly housing. The property has just over 100 acres.

**Elderly Housing Ordinance:** With Mrs. Campbell now present the question of whether to move the Elderly Housing Ordinance to its own section was brought up again for discussion. Mrs. Campbell offered two options:

1. Include a mechanism in the ordinance that would allow for certain waivers – special exceptions could be granted provided specific conditions are met.
2. Amend the ordinance. Once the amendment is posted for public hearing it is virtually in effect until voted on in March. It is best to fix the item in the ordinance than to grant waivers from it.

She continued to say that if density is the issue than it should be addressed and amended. Amendments to the ordinance should be documented to make the ordinance workable.

**Monique Waldron – Kensington Subdivision:** It was noted that Monique Waldron has not kept her scheduled appointment with the board. Abutter Deborah Merchant was present and informed the board that Mrs. Waldron met with the Kensington Planning Board this evening and her subdivision application was continued again. There was question as to whether the East Kingston Planning Board should have been notified of the meeting by the Kensington Planning Board. Members requested the recording secretary try and get a copy of the Kensington Planning Board minutes regarding this subdivision.

With no further business,

**MOTION:** Mrs. Fillio motioned to adjourn. Mr. Johnson seconded. The motion passed 5-0 and this September 21, 2000 Planning Board meeting ended at 8:34 p.m.

Respectfully submitted,

Catherine Belcher  
Secretary

Minutes completed and on file September 23, 2000.

Approved: Oct 19, 2000