



UNAPPROVED

PLANNING BOARD TOWN OF EAST KINGSTON NEW HAMPSHIRE

2007-2008
James Roby Day, Jr., Chairman
Catherine Ellen Belcher, Vice Chairman

MINUTES

(Work Session of 9 October 2007)

AGENDA:

7:00PM - **Board Business**

7:05PM –**Discussion** with John Mulvey and prospective tenants

8:15PM – **Continued Board Business**

8:59PM - **Adjournment**

CALL TO ORDER: Chairman Day called the work session of the East Kingston Planning Board to order at 7:00PM.

ROLL CALL: Mrs. White called the roll.

Members present –Mrs. CE Belcher, Vice Chairman; Mr. JR Day, Chairman; Dr. RA Marston, Mr. RA Smith.

Alternate members present –Mr. EA Lloyd, Mr. RF Morales, Mr. D Sullivan.

Advisors Present – No advisors were present for this work session.

BOARD BUSINESS

Minutes. Mr. Day entertained a motion to approve the 20 Sep 07 minutes. There was one change offered.

MOTION: Mr. Lloyd **MOVED** the Planning Board approve the 20 Sep 07 minutes with the noted change.
Mr. Morales seconded, and the motion passed unanimously.

DISCUSSION ONLY WITH MR. JOHN MULVEY, 17 HAVERHILL ROAD, EAST KINGSTON AND PROSPECTIVE TENANTS FOR CHANGE OF TENANCY.

Mr. Day welcomed Mr. Mulvey to the meeting. Mr. Mulvey reported that his tenants were unable to attend tonight due to personal reasons, and he would try to answer any questions the Board had.

Mr. Day explained that tonight's discussion would allow the Board to decide whether or not a full site plan would be necessary for the change in tenancy.

Mr. Mulvey explained that he had two prospective tenants who wanted to lease space at his location to sell used cars in the place of a previous tenant. The size of the space to be leased would be 1,200 sf, and he would allow approximately 4 spaces in the front of the building and four spaces in the rear for parking of cars. Cars would only be allowed to the furthest point of the pavement. He would limit the number of cars outside for ease of snow removal.

Mrs. Belcher referred to vehicles parked outside in the rear of the building and asked what they were being used for. Mr. Mulvey stated that at the present time there was a donor parts car, some spare parts, a project car, and a truck cab in the rear of the building. He planned on having the spare parts and the truck cab removed. He invited the Board members to come and look behind his building for themselves, if they wished.

Mrs. Belcher stated that because of the type of business, it was a concern that it could turn into a junkyard, and as per ordinance, junkyards were not allowed in the Town of East Kingston. She stressed the importance for the prospective tenant to also be aware of that fact. She understood that some salvage cars would be needed due to the nature of the business, but was concerned it could get out of hand.

Mr. Mulvey stated that he would lease 1,200 sf to the tenant, which was comprised of the two bays in the front of the building and the office space. He would also allow 4 parking spaces in front and 4 in the rear. He did not anticipate that the tenant would display many cars outside, and stated most used car sales located in places without high traffic relied on internet sales and ads in the newspapers.

It was Mr. Mulvey's understanding that the responsibility to abide by the conditions the Board had set out for him as the property owner was his, and in turn, it would be his responsibility to make sure those conditions would be adhered to by his tenant.

Mr. Day commented that it would have been useful if the prospective tenant were present for the Board to ask questions. That way the Board could gather information such as the name of the business, the tenant's names, phone number, where they had conducted business previously, a brief description of their business, etc.

Mr. Day explained that Mr. Mulvey was not being singled out. The site plan review regulations call for the Board to decide if a full site plan is necessary for any change in tenancy; this is always the case for tenants in the industrial park.

Mr. Morales asked if warranties would be offered with the sales of the vehicles, thereby necessitating supplies to be kept on hand for repairs. If so, there was the possibility of hazardous materials being kept on the property, which the fire and police departments would need to be made aware of. These were the types of questions that needed to be asked of the proposed tenants. Mr. Mulvey stated that the tenants would have to be bonded by the State to sell automobiles, and he would also check their references.

Mr. Mulvey mentioned that if he was not free to rent to a tenant for a timeframe of 2 months due to Planning Board meeting schedules, it could put him in a spot for renting at all.

Mr. Day stated that if Mr. Mulvey could get the needed information in time for the Secretary to distribute to Board members for review before the next meeting on the 18th, they would schedule Mr. Mulvey and his tenants to come before the Board at that time. They would then be able to ascertain if a full site plan review would be necessary.

Mrs. Belcher suggested gathering information such as number of days proposed to be open, proposed hours of operation, signage, etc. for the next meeting. Mr. Mulvey asked if the Board would like a copy of the proposed lease, and Mr. Day stated that would be quite helpful in answering some of the Board's questions.

Mr. Mulvey thanked the Board for their time.

CONTINUED BOARD BUSINESS

Mr. Day reviewed the handouts to the Board.

Joanne Brandt's subdivision. Mr. Day noted that there were two procedural suggestions.

1. Mr. Steltzer, RPC, had spoken to Glenn Greenwood, RPC Assistant Director, and it was his recommendation that the Board hold a Public Hearing with abutter notification to change the conditions of approval. This way all the bases would be covered.
2. Mrs. White had also called the Local Government Center and Attorney Kim Halquist stated that it appeared that the proposed change was a minor one and that it would not require a public hearing with abutter notification, but could be handled in a public meeting. A motion to remove the requirement for fire suppression together with an amended notice of decision should be sufficient.

The Board was not sure that a public meeting would be sufficient. Mr. Day noted that now there was a fire pond located in the Clark subdivision. According to Fire Chief Mazur, it is less than 1,200' from Mrs. Brandt's property, and the Board decided that a change to the conditional approval could be considered minor. Fire Chief Mazur agreed to provide the Planning Board with a memo regarding the fire pond. It was Mr. Morales' opinion that a discussion still would need to take place and be recorded in the meeting minutes. The discussion of Joanne Brandt's subdivision will be included on the agenda for the 18th, and Mrs. White will call Mrs. Brandt and let her know in case she wishes to attend.

Targeted Block Grant (TBG). Mr. Day announced that the Planning Board is now formally committed to the TBG.

Joint Police Department/Fire Department letter. A letter regarding similar sounding street and subdivision names was received jointly from the Police Chief and the Fire Chief. The Planning Board will take the matter under advisement.

ZBA's Final Cell Tower Meeting. Mr. Day applauded the ZBA for its Herculean effort in dotting all the "I's" and crossing all the "T's" in the cell tower matter. Mr. Morales also commended the ZBA for staying calm in a hostile environment and rendering a fair decision.

Mr. Day mentioned that the ZBA minutes had questioned if the ordinance was flawed. He recounted that when the ordinance was instituted, it was the "boilerplate" from the attorney and it was tailored to East Kingston. Mr. Greenwood had stated that towns with similar ordinances had stood the test when taken to court; Mr. Day thought East Kingston would stand also.

Mr. Day asked "What did the ZBA consider the flaw to be?" and "What should the Planning Board do?" Mrs. Belcher explained that the ordinance does not provide for coverage of gaps, since cell towers and even antennas were not allowed without variances any place other than in the commercial and light industrial zones. As the ordinance presently reads, if it in any way resembles an antenna, it is not allowed. Mr. Morales stated that new technologies were coming up every day, and perhaps the ordinance should be rewritten for new technology.

Mr. Day stated that they had time to repair the ordinance if need be. Mrs. Belcher was concerned that the Town was taken to court for prohibiting the company to cover their gaps, they could lose. It has been 10 years since the Town had passed the ordinance.

In the cell tower rehearing, the ZBA at no time had felt there were not gaps to be filled. Their concern was how to fill those gaps without violating and being contrary to the ordinance. Mr. Belcher stated that the decision for her was the weight of the placement versus being contrary to the spirit of the ordinance. If the applicant had been able to bring the tower down the hill, she might have voted differently. Mrs. Belcher thought the ordinance might need to be adjusted so it was not so prohibiting. Mr. Day will ask Eric Steltzer, RPC, to give his input on the ordinance.

2007-08 Capitol Improvements Plan (CIP) Update. Mr. Day announced that with the exception of the Recreation Committee, he now has input from all departments on the CIP. Reviewing Table 11: Fire/Rescue has a plan to replace their vehicles, and they might need a warrant article for the Scott Air Paks. The Police Department needs a cruiser; the Highway Department is straightforward; and the Cemetery Committee takes care of itself. Conservation is debt service. The Library is debt service. The library fire suppression upgrade is \$25,000.

Mr. Morales had a question for Mr. Lloyd concerning the fire suppression system. He referred to the Selectmen's minutes referencing the \$4,000 to hook up the library for the water supply for the fire suppression system, and the fact that Mr. Pendell had stated it was not in the budget. Mr. Morales asked for clarification since he remembered when he was a Selectman the original idea had been not to have a well, but to hook up to the water supply. Mr. Lloyd responded that he did not have the answer to that question, but the library committee would be having a meeting Wednesday evening in regard to that very question.

Mr. Day continued the review of the CIP. The Historical Committee has budgeted \$100,000 for restoration of the depot as there were major safety and structural issues. It was questioned whether the restoration of the depot would be worth it as there was no place for people to park. Mrs. St. Martin was also contemplating a Capital Reserve Fund dedicated to the preservation and restoration of historic structures. Preliminary review shows a total tax impact of \$3.93.

Mr. Smith questioned why the numbers under fire/rescue on the CIP were different from the numbers that were in the Selectmen's minutes. Mr. Day explained that the Selectmen's minutes had stated the budget numbers, and the CIP includes off budget expenditures; they would not necessarily be the same as they represented to two different things.

Mr. Day enquired if the Board felt the CIP was ready to present to the Selectmen; they agreed it was. Mr. Day will make the final touches and present it to the Selectmen. Kudos were bestowed on Mr. Day for the fine job he does on the CIP.

Master Plan Agriculture Chapter Review. Mr. Day explained that he had moved the goals portion to the front of the chapter as discussed at the last meeting. The Recommendation Section remained the Table VI suggested by Dr. Robinson. Mr. Day felt something substantial was lacking, and asked for the Board's input. Mr. Morales commented that they could make it as simple or as complicated as they wanted to. Mr. Day asked if there were suggestions for any other goals.

In discussion, the Board touched on some items previously discussed such as tax abatements for agricultural use calculated on the size of the enterprise. Mr. Lloyd thought there should be relationship between the Goals and Table 5. Mr. Lloyd

thought the goals were stated as the Board intended, and those goals should be supported by one or more objectives. The objectives in turn should be supported by proposed action. The Board needed to decide how in-depth it wanted to go with the actions proposed.

Mr. Day asked if the Board was comfortable with the five goals they had already identified, and they agreed they were. Dr. Marston noted that taxation was a problem for the farmers. Mr. Morales stated that farmland is taxed at the fair market value, which does not give incentive to encourage farming. Mrs. Belcher noted that although it was not specific to farming, farming was included. Mr. Morales reflected farmland was more targeted as they usually had more land, which would be conducive to building housing developments.

Mrs. Belcher suggested that the Town should be able to provide incentives for the farmers to go back to grass roots farming.

The Board discussed the five goals, and offered suggestions for the Recommended Action column.

Goal #1. Keep farmers in active farming. Keep costs of ownership down. Adjust building codes for agricultural structures.

Goal #2. Encourage all forms of agriculture operating in a competitive, free-market environment. Formation of a farming committee was suggested. Advertising on the Internet and Internet sales could be a possibility. Perhaps the Grange could be involved somehow.

Goal #3. Encourage niche market agriculture. Help small farms find products they can get into. Examples discussed were buffalo farms, organic crops, or a rose farm. Show them examples, and try to match a potential niche market to each farm. Make an extensive list of the niche markets for reference. Enable these niche markets to be eligible for future tax breaks.

Goal #4. Develop a method by which all agricultural activities in Town are identified, encouraged and locally advertised. This was thought to actually be a part of Goal #2. Identify all the farms and have a section in the annual report for them. Offer free advertising on a web site; the unofficial web site was suggested.

Goal #5. Find ways to rationalize property taxation so as to encourage agriculture. Some sort of methodology could be employed utilizing the size and type of farm, leading to a zoning ordinance or regulation.

The Board collectively agreed that five goals were sufficient. Mr. Day would rework Table 5 and the goals into a new table with Goals, Issues and Action Plan columns. This way it would be easier for the Board to see what they have to work with.

Mr. Morales asked how the property was evaluated in East Kingston. He thought that each resident should be able to look at the tax map and come up with the same property value as the assessors. He agreed it was subjective. Mrs. Belcher agreed it was based on the market, and the market was fickle.

Mr. Day asked if the Town had the right to tell the state what they wanted the tax rate to be; and tell the assessors what to assess. Mrs. Belcher asked that since they offered a Veteran's tax credit; could they offer a farm tax credit? Mr. Morales offered that the State had control over the maximum exemption allowed. Mr. Day was certain the entity that controlled the tax rate was grounded in statute. Mr. Lloyd noted that although they could be "breaking new ground" in their discussions, the real question was if they had any authority over the tax rate. Unless there was a statute that authorized what they were proposing, they could not execute it. Mrs. Belcher offered that if they did not have any authority over the tax rate, perhaps they could offer an exemption for which a farm would have to requalify each year. If they could not deduct it from their taxes, could they abate it through a program instead and ask the taxpayers to vote on paying the farmers out of the Town budget? Mr. Day will pose that question to the RPC and Local Government Center.

Mr. Lloyd had some questions regarding the report.

- Under *Benefits of Agriculture*, Paragraph A. *Economic Values* - the first sentence says, "annual sales of agricultural products are close to \$750 million dollars". Mr. Lloyd assumes that is the state of NH, but it does not say that. The figure is too small to be a national number and too large to be a local number.
- Also, under *Table IV, Farming in New Hampshire* - it says that data from 2005 show the top 5 producers in NH in agricultural sales together contributed a total of \$144.8 million dollars. If the top 5 only total \$144.8, the whole state cannot be \$750 million; the figure is too large.
- And in *Table #1*, it states that the state total is \$144 million; which cannot be correct. The figures as written are very confusing and need to be cleaned up.

Mr. Day will ask Dr. Robinson to clarify those questioned figures.

Mr. Day will provide the Board with a clean copy of the draft for next week's meeting so as to leave sufficient time to consider revisions to ordinances. In order to hold the necessary public hearing by February, the work would have to be completed by Christmas.

CONTINUED BOARD BUSINESS

Mr. Morales had sent information regarding the Salt Marsh to the Board members with Internet service. He thought the ordinances might need to be beefed up to enforce water quality. Mr. Day encouraged Mr. Morales to draft something on it.

ADJOURNMENT:

Mr. Day entertained a motion to adjourn.

MOTION: Dr. Marston **MOVED** the Planning Board adjourn. Mr. Smith seconded, and the motion carried unanimously at 8:50 pm.

Respectfully submitted,

Barbara A. White
Recording Secretary

J. Roby Day.
Chairman

Minutes approved October 18, 2007