

TOWN OF EAST KINGSTON, NH
PLANNING BOARD MEETING MINUTES
October 19, 2000

AGENDA

- 7:10 Bruce Levis – Maplevale Farm Update
7:15 Paul Masoni – Havehill Road Site Plan Review – Discussion
7:30 Frank Colanton – Depot Road Site Plan Review (Kingston Fairways) – Public Hearing
8:00 Monique Waldron – East Kingston/Kensington Subdivision – Public Hearing

Members attending: Richard A. Smith, Sr. – Chairman, Dr. Robert Marston, John L. Fillo – Ex-officio, and Alternate David Morse.

Absent: Edward Johnson – Vice Chairman, Beverly Fillo, and Alternate Members Peter A. Riley and Robert Nigrello.

Others attending: Lauren K. Smith – Conservation Commission Chairman, Sarah Campbell – RPC Planner, Tracy Degnan – RPC Planner, Fire Chief Alan Mazur, Deputy Fire Chief Rob Carter, Fire Department Lieutenant Andy Conti, Roby Day – Rockingham Planning Commissioner, Paul Masoni, Bob Weed, Bruce Levis, James Lavelle – LLS, Mike Andersen, Charlie Grant, Monique Waldron, Dana & Deborah Merchant, and other members of the public who did not address their concerns.

Chairman Smith opened this October 19, 2000 planning board meeting at 7:02 with the role call. Noting the absence of two regular members (Mr. Johnson and Mrs. Fillo), 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. Fillo and Mr. Morse. Mr. Morse noted a correction.

MOTION: Mr. Morse motioned to approve the Planning Board minutes dated August 17, 2000 as amended. Mr. Fillo seconded. With no further discussion, the motion carried 3-0.

The Board reviewed minutes dated September 21, 2000. Those who attended that meeting and who were eligible to vote on their acceptance were Chairman Smith, Mr. Johnson, Mr. Fillo, Mrs. Fillo and Mr. Morse.

MOTION: Mr. Fillo motioned to approve the Planning Board minutes dated September 21, 2000 as written. Mr. Morse seconded. With no further discussion, the motion carried 3-0.

The Board reviewed minutes dated October 12, 2000. Those who attended that meeting and who were eligible to vote on their acceptance were Chairman Smith, Mr. Johnson, Mr. Fillo, and Mr. Morse.

MOTION: Dr. Marston motioned to approve the Planning Board minutes dated October 12, 2000 as written. Mr. Fillo seconded. With no further discussion, the motion carried 4-0.

Bruce Levis – Maplevale Farm Update: Chairman Smith opened discussion with Bruce Levis of Maplevale Farm and Orchards at 7:10 p.m. Mr. Levis was before the board as a courtesy to offer the board the facts behind the pending sale of his property and to dispel any rumors thereof.

Mr. Levis stated that years ago he too had served on the planning board and that he was here to contribute to the board what information he could. He stated that at his current age of 71, he and his wife have decided to retire however, like most farmers, all his investments were tied up in the property, therefore the sale of their property would fund their retirement. He stated that before the property was placed on the market, he approached the Conservation Commission to see if they were interested in buying the development rights of the property. He was given a negative response thus he took his plans to sell to a realtor, got the land appraised and went on from there. A price was set and four bidders came forward who were willing to meet the selling terms. He and his wife selected one of the bidders whom they felt would have the least impact on the town as well as offer a good addition. The buyers name was Jeffrey Hersch who is an owner of a RV franchise in New Hampshire and who has other properties in the state. The buyer has indicated to the Levis' that he plans to build his own home overlooking the orchard on a large parcel and then will subdivide the remaining land, but not in the immediate future. They are waiting for the perc and engineering results to know if the sale will go through.

He went on to explain that one of the provisions in the sale of the property was an addendum – item number 5 that states that a total of two acres, located between the town offices and the church, would be donated to the church. That is one acre donated by the seller and one acre donated by the buyer. The road frontage to be used in this donation will also include room for a road to access the back and. He said that this addendum was added because each Sunday parishioners are forced to cross the street on that bad corner because the parking is so limited. People park along the road and even at the library. Furthermore, as the town grows it is likely the church will grow and more land is needed for both parking and a possible expansion of the church building sometime in the future. This is all written into the sales agreement. He then asked if there were any questions he might be able to answer.

At this time it was noted that Mr. Levis was before the board tonight as a courtesy only and that he has no obligation whatsoever to the board or the town to disclose his property sales agreement. Members expressed their thanks and appreciation.

Mr. Roby Day inquired if Mr. Levis planned to stay in town after the sale of his property.

Mr. Levis replied that it would be too difficult for him to stay when the farm is subdivided – would be painful to watch; it is likely they will move. He said they started out in Connecticut, moved to Ontario, then to Ohio before moving to New Hampshire. He said he would like to see more of the country.

Mrs. Campbell stated that from a planning standpoint, the farm has had a large place in the town's history and heritage and that it is unfortunate that something couldn't be worked out between the town and the Levis property. It is a shame to see this big and beautiful parcel chopped up and developed. She said she hoped the town would learn from this.

Mr. Levis responded that the Conservation Commission took a survey and told him there were three other properties that were of priority over this piece.

Conservation Commission Chairman Larry Smith stated that the Federal funds available to purchase property dried up quickly, and the Town lacked sufficient funds to supply the local match.

Mrs. Campbell stated that the town needs to think about the future needs of the fire and police departments. It was noted that the buyer might be open to discussion about the town's possible acquisition of land. Mr. Levis was again thanked for voluntarily providing the board with this information. He left the meeting at 7:15 p.m.

Paul Masoni – Haverhill Road Site Plan Review - Discussion: Chairman Smith opened conceptual discussion with Paul Masoni at 7:15 p.m. Mr. Masoni informed the board that he operates a canvas manufacturing business in Atkinson and that he is interested in purchasing the Marden property located in the light industrial district on Haverhill Road. He would like to relocate his business to East Kingston. He said that he was here tonight to see if the existing site plan approved for Marden back in 1995 could be modified. He then distributed copies of the original 1995 site plan and his newly proposed site plan.

He went on to say that the original 1995 site plan gave approval for a 60-foot by 120-foot building, which was never constructed. He would like to modify the building's footprint to a 100-foot by 100-foot building in the same location to house his canvas manufacturing business. He said that currently buildings #2 and #3 are occupied. He would let the tree service located on site remain but all the other businesses would go. He said he wants clean sites and no street traffic. He does business around the country; he purchases the canvas products by the roll and then heat seals and stitches them to his customers needs, e.g. truck tarps, vests, meshes, netting, catch nets, etc. He runs his business from 6 a.m. to 6 p.m.

He continued to say that in addition to constructing the 100'x100' building, he would create a loop driveway. With the type of business he has, he needs floor space to accommodate the big items he needs to produce. He noted the existing storage buildings are currently empty but he would use them to stockpile his fabric and supplies. It may take six months to a year to build the new building, but he would like to move in right now, using two of the existing buildings; then rent them out later when he moves into the new building.

He indicated there would be no trucking terminals, but there would be some types of trucking activity – to transport supplies and product. He currently uses almost daily Red Star and UPS for trucking services. He stated that the driveway permit issued to Marden by the State would be constructed and built to spec. He does not want any problems with the neighbors thus he is willing to work things out with them. He wants to do his business and be left alone.

would do what he could to eliminate the existing problems. He intends to operate the business from 6 a.m. to 6 p.m. with most deliveries coming in the late morning or early afternoon – though he could not promise that a customer wouldn't come in at 6 a.m.

When informed that the board must be notified of all new tenants to determine if a full site plan review would need to be conducted or not, Mr. Masoni replied that he would do what was necessary to abide by the town's rules. It was noted that the plans before the board do not reflect the entire parcel of 56 acres.

Mrs. Campbell stated that then next step would be a formal site plan review where the board would make sure the business meets the criteria set for businesses located in the light industrial district.

Mr. Masoni stated that he complies with the light industrial zone in Atkinson and that anyone is welcome to come and visit his current business site at 56 Island Pond Road. He stated that he wants to move in to East Kingston and go to work. When asked about chemicals he responded that he only uses glue to hold the fabric in place when sewing— small stuff that does not get washed down any drain. Again he stated that he uses sewing machines, heat sealers, and hot air sealers. He would install fans for ventilation and the driveway "mess" would go away. He would relocate the driveway off of the Murphy property.

Mr. Masoni was then informed that to get on the November 16th agenda for a public hearing he must submit a completed application with the Selectmen's Office by October 27th. He was also instructed to submit a complete list of current tenants, their businesses, dates of establishment in town, and what buildings they currently occupy. Mr. Masoni agreed and left the meeting at 7:33 p.m.

Francis Colanton – Depot Road Site Plan Review – Public Hearing: Chairman Smith opened the public hearing for Francis Colanton at 7:36 p.m. who proposes to expand his 9-hole golf course, identified as "Kingston Fairways", into 18 holes. The board expressed their condolences to the Colanton family for the recent passing of Francis Colanton. It was noted that James Lavelle, LLS would represent the applicant.

Mr. Lavelle focused on a display he set up of the entire parcel. He noted that the red line on the plan represents the town line and that four and part of five holes are located in East Kingston. He stated that Mr. Fillio and Mr. Morse were in attendance at the Kingston Planning Board hearing on that previous Tuesday where Kingston granted conditional approval of the project. Kingston required additional plantings, the Colanton house be shown on the plan, and minor plan notes (large pine trees located in East Kingston be replaced if blown down).

He then pointed out a wetland area that was restored – it was filled in by the contractor early in the project; Conservation Commission Chairman Larry Smith was aware of this violation. The wetland violation areas have since been restored and approved by the Rockingham County Conservation District and the State Wetlands Bureau. He continued to say that the project is almost completely built – the greens are in, the tees are in – one section is not yet done. Items to be completed in Kingston include the replacement of a barn, the expansion of the parking lot, and footbridges over the wetland areas need to be built. All the holes have been constructed and the grass is growing.

He then mentioned that abutters Bill and Pam DiProfio would not be present at this hearing and requested their letter be read into the minutes. Mrs. Campbell read the following:

Dear Mr. Smith, We will be away from home on October 19, 2000 and will be unable to be present for the hearing on Mr. Colanton's application to expand the Kingston Fairways Golf Course. As abutters and long time residents of East Kingston we believe this is a very important meeting. As the board is aware, Mr. Colanton purchased the land for the expansion of his golf course from us. As abutters, we have watched the work on the golf course closely.

It appears to us the work was done quickly and with little disruption to us or other abutters. We have walked these woods for 25 years and continue to walk them now that the golf course is in place. Contrary to rumor or other perceived observations there has been no change to the wet areas of the property.

As residents of the Town of East Kingston, we urge your positive support of the project. The alternative uses for the property are few and residential housing is the likely use. Our experience is that housing development results in higher taxes for everyone to pay for the additional services and schools needed to support the development. We are not opposed to housing development. When the rare opportunity exists to have a development that reduces the tax burden on the rest of the taxpayers, we urge you to seize the moment and do the right thing.

The Kingston Fairways Golf Course adds to the open space in our town, is a place for recreation, improves the overall living environment and will add to the tax base in a positive way.

As abutters and residents we cannot find a single negative aspect to this development. All development is a balance. This one seems to be positive in all ways and deserves your strong support.

Please read this letter into the record of your proceedings, as we would like our opinion heard even if we cannot be with you in person. Bill and Pam DiProfio.

Chairman Smith asked if there were any other concerns from abutters. There were none.

Conservation Commission Chairman Larry Smith stated that he would like to make a correction to the second paragraph of the letter just read. The reference to "no change to the wet areas on the property" – that statement was inaccurate. The area in the seventh fairway was indeed disturbed, but has since been restored.

When asked how far the fairways were from the property lines, Mr. Lavelle replied that they are thirty feet from the stone wall. Kingston's setbacks are fifty feet with added vegetation in some areas. He continued to say that abutter Mrs. Whalen had concerns about the chemicals used on the greens and their effects on her well. Her property is separated from the golf course property by other land owned by the DiProfios. As far as chemical use, the golf course's greens keeper can answer any questions on that matter. He continued to say that an outline of the fertilizers used was submitted to the Kingston Planning Board.

Mr. Fillio requested the Material Safety Data Sheets be submitted to the East Kingston Planning Board as well.

Mr. Lavelle went on to say that the seventh fairway was not yet completed – the tee was not yet created. As far as the state is concerned, the project is all set.

Conservation Commission Chairman Larry Smith stated that the wetland restoration have all been approved, however the Dredge and Fill permits for the two new footbridges are still pending. Furthermore, one more growing season is required before the state will issue its final write-off of the project.

Mr. Lavelle indicated that there is still some work to do outside of the disturbed wetland areas. He then submitted photographs of specific areas of the golf course.

When asked his opinion of the wetland restoration status, Conservation Commission Chairman Larry Smith replied that he was happy with its current status but he was not happy with how it got there. He further stated that he has no more issues with the proposal – his department has reviewed the plans.

At Mr. Fillio's inquiry, Mr. Lavelle stated that Kingston wanted additional buffers in relation to the location of some of the homes.

This brought about the discussion of the possible future development of the parcels located behind the fourth and sixth greens. It was noted that both lots MBL# 4-1-13 and MBL# 3-2-1 were both buildable lots and that some sort of buffer should be created to protect those prospective homes. It was noted that the Whalens had once considered building back on their lot until they found out just how close it was to the fairways.

Mr. Fillio stated that these are legitimate concerns and some sort of action should be taken to create a buffer. Netting and natural buffers were discussed. It was noted that East Kingston's dwelling setback is twenty-five feet from side and rear property lines and that the fairway is located only thirty feet from the boundary. The total fifty-five feet from the fairways was not an adequate distance as far as the board was concerned. Members felt that the natural buffer should be maintained as well as a fence installed (at the request of the abutter).

Mr. Lavelle stated that he was hoping the board would grant conditional approval of the plan this evening and that members may want to view the area to see if more vegetation is needed. He stated the natural buffer between the greens and the stone wall would remain. He also stated that footpaths would be located through the natural buffer to access the tees. A net could be installed along the stone wall. Again it was noted a net could be installed at the request of the abutters as not all abutters would be happy with this type of netting versus the natural buffer alone. It was then noted that any type of damage done by a golf ball is the sole responsibility of the golfer (if caught).

Chairman Smith asked why an application was not filed with the board back when Colanton purchased the land from DiProfio. Why was the golf course expanded before approval was given by the towns and the state? Bulldozers were brought in the week after the land purchase – the plan should have been approved before the work was done.

Mr. Lavelle replied that he is only the land surveyor and that the order to move forward without approvals and permits was not his decision.

At Mrs. Campbell's inquiry, Mr. Lavelle stated that the former seventh tee has been removed from the restoration area and that there are no designated cart paths between the greens and the tees – the carts go wherever they want. The foot path along the properties edge at the fourth and sixth greens would need to be shown on the map.

Mr. Lavelle stated that the value of a home abutting a golf course increases up to one-third its value.

Mr. Michael Andersen added that living along side a golf course is nice but there is not much privacy. There is little noise as the golf carts are very quiet.

Mr. Lavelle stated that Kingston's required conditions have not yet been added to the plan.

MOTION: Mr. Fillio motioned to accept jurisdiction on the site plan to expand the Kingston Fairways Golf course to an 18-hole course. Dr. Marston seconded. With no further discussion, the motion carried 4-0.

MOTION: Mr. Fillio motioned to grant approval of the site plan for Kingston Fairways Golf Course, MBL# 04-01-16, as presented with the following conditions:

1. The Material Safety Data Sheets be submitted for review.
2. A notation be placed on the plan indicating a safety net be placed at the back of the fourth and sixth greens along the abutting property lines (MBL# 4-1-13 & MBL# 3-2-1) should the abutting land be developed and the nets be requested by the abutters.
3. The cart and foot paths located between the fourth green and fifth tee and the sixth green and seventh tee be shown on the plan
4. Show the existing vegetation line of mature trees, etc. along the eastern bound behind the fourth and sixth greens to demonstrate the existing natural buffer.

David Morse seconded. The discussion that followed the motion resulted in the scheduling of a site walk of the proposed area by members of the Planning Board, the Conservation Commission Chairman and a Kingston Fairways' representative on Wednesday, October 25, 2000 at 12 p.m. The motion carried 4-0.

Monique Waldron – East Kingston/Kensington Subdivision – Public Hearing: Chairman Smith opened the public hearing for Monique Waldron's plan to subdivide land in East Kingston and Kensington on North Road (Route 108) at 8:15 p.m. Mrs. Waldron submitted a plan of the East Kingston portion of the proposal and a Kensington approved plan of the Kensington portion of the proposal. She explained that her plan is to subdivide a contiguous piece of land that lies in both East Kingston and Kensington into three lots. The actual subdivided pieces would remain in Kensington and only an eight-foot lot line would be needed in the East Kingston. She said that she wishes to exercise her legal right to use the town boundary line as a lot line dividing two of the lots. The three newly proposed lots would be as follows: 1) one parcel containing 9+ acres and the main house in Kensington; 2) one parcel containing 5+ acres and an in-law apartment in Kensington; and 3) one parcel containing 16+ acres in East Kingston.

She further stated that her original plans to construct a 22-stall horse barn in Kensington have changed to building it in East Kingston. Reasons cited included the realization of the barn being too close to the main house and because obtaining Kensington approval might be difficult (her recent experience with the Kensington Planning Board was somewhat stressful and thought East Kingston's board might be easier to work with).

Noting the application was complete,

MOTION: Mr. Morse motion to accept jurisdiction on the plan to subdivide MBL# 16-4-8. Dr. Marston seconded. With no further discussion the motion carried 4-0.

Mrs. Waldron stated that she wanted to use one of the parcels as collateral for financing the construction of the barn. Her original plan was to put the barn in Kensington and use the land in East Kingston, also in current use status, as pasture. Since then her plan has changed to locate the barn in East Kingston. It is more aesthetically pleasing – though it will cost more, she believes it will be worth it. That new location plan is so recent it is not on the plan presented this evening. The land is already subdivided in Kensington, she just wants to relocate the barn and use an eight-foot portion of the East Kingston parcel to satisfy the Kensington frontage requirements on the 5+-acre parcel. The existing garage on that parcel is currently being converted to an in-law apartment for her father. In order for her to comply with the 350-foot frontage rule in Kensington, she needs to move the boundary line eight feet into East Kingston.

At the inquiry of board members, Mrs. Waldron stated that the barn would be accessed by a driveway located in Kensington just passed the town line. A driveway permit has been issued by the state for this.

Members indicated that driveway approval is also required for the East Kingston parcel. Fire Chief Alan Mazur stated that a driveway to access the barn must be located in East Kingston as it is against procedure to enter into another town to access land in East Kingston. As far as other fire suppression codes go, this proposal meets the 1,200-foot fire pond/dry hydrant code as it is within the required proximity to the Bioteau cistern.

In further review of the driveway it was noted that East Kingston requires a ten-foot buffer between driveways and property lines and even though the proposed driveway on the Kensington side is less than ten feet, East Kingston has no jurisdiction over it. It was also noted that the bounds have not yet been set.

Though the applicant has indicated the parcel will not be used for dwellings, the regulations state that all parcels must be determined buildable to receive approval, thus test pits must be done and a 4K area must be shown on the plan.

Mrs. Waldron further stated that the barn would be a private barn but would also board other horses. This brought up the issue of whether the use of the property was considered agricultural or commercial. Dr. Marston stated that if the facility foals once a year, it is considered agricultural. Mrs. Waldron stated that she is positive the use would be agricultural according to the state's definition of agricultural uses.

Chairman Smith then opened the meeting to abutter's comments. Dana and Deborah Merchant direct abutters came forward to review the plans. They indicated their main concern was the actual use of the property as they indicated Mrs. Waldron's first plans were to put in a housing development. Mrs. Waldron denied there was ever a time when she considered constructing houses on these parcels, but Mr. Merchant produced documents indicating otherwise. Mrs. Waldron explained that those plans were from a very long time ago and that she had never really considered that.

Conservation Commission Chairman Larry Smith requested the town bound line (proposed to be used as a boundary line) be tied into the town bound located at the top of the hill that was not shown on the plan.

It was also requested that a notation be placed on the plan referencing the Kensington subdivision plan when it gets recorded.

Discussion then transpired about Mrs. Waldron's proposed use of the land. The only plan before the board is a plan to subdivide and that any approval of that plan does not indicate approval of the use of the land. This statement led to Mrs. Waldron's concern about the placement of the barn and pasture. She is planting the pasture now and needs to be clear on where the barn is allowed to be and mostly if her plans to operate a horse farm will be permitted.

She continued to say that the Department of Agriculture recently made a ruling that clearly states that horse-boarding facilities are considered agricultural. How does she find out if the town will also consider the use agricultural?

Chairman Smith agreed with Mrs. Waldron's statement that said any use of a horse facility is considered agricultural by the state. He further advised her to apply for a building permit with the Building Inspector, who would provide the setbacks, etc. Recent issues surrounding the town's current horse facilities include improper buffers from dust.

Mrs. Waldron stated that her plan is to locate the riding area up on the hill. Her paddocks will be rotated to prevent dust – she prefers grass paddocks, as it is best for the horses. She said all the manure would be shipped out – she has contacted two different services for this.

Noting the following items (listed below) to be addressed on the applicant's plan to subdivide, Chairman Smith ordered this public hearing be continued until November 16, 2000 at 7:30 p.m. at the Town Hall and that this announcement would serve as notification to all abutters. The public hearing closed at 9:11 p.m.

1. State approval is needed for a driveway to be located in the Town of East Kingston (at least 10 feet from the boundary line);
2. Test pits must be performed and witnessed by the East Kingston Building Inspector – they must be indicated on the plan as well as a 4K area to show the lot is buildable;
3. All new bounds must be set and approved by the Building Inspector. The plan must show all bounds whether found or set;
4. Show a tie or reference to the town bound located on top of the hill.
5. Place a notation on the plan referencing the Kensington subdivision plan when it is recorded. (This notation can be made with a blank and the deed number filled in by the recording secretary.)

Elderly Housing Ordinance: The board reviewed the amendment draft to the Elderly Housing Ordinance. This draft was a result of the October 12th work session. This amendment cited a maximum footprint size for elderly housing buildings and a clearer explanation how the total number of bedrooms allowed is calculated.

When reviewing the footprint size of 5,000 square feet, it was noted that hallways and stairways were not figured into the number, thus it was agreed the total square footage allowed was not enough and furthermore, some buildings would only be one story so not as many units could be placed in one building.

Mr. Morse held his position that density bonuses should also be given like they are in cluster housing. He stated that unlike a cluster development, elderly housing does not allow children, thus there is no educational burden – it is to the town's advantage to allow bonuses. He then offered his own bonus equations (if leaving 50% of land open then receive 5% bonus, if leaving 75% open space then receive 10% bonus, keeping agricultural uses then receive 5% - capping the total bonuses at 10%.)

Mrs. Campbell replied that the bedroom density is doubled by going elderly housing without offering bonuses, plus the growth control ordinance does not apply.

Fire Chief Alan Mazur stated that this type of housing falls under new codes – anything over three units per building must be sprinkled. There are new regulations for all types of scenarios – it will go to another code if it is two-story.

Further review of the draft amendments resulted in an example equation added to item #2. Still noting the footprint size was too small members were asked to think about how large they think it should be and the discussion was to be continued at the November 16th meeting.

OSP Fall Conference: Members were advised about the December 9th Office of State Planning Fall Conference regarding telecommunications in New Hampshire. Members wishing to attend must contact the recording secretary by November 8th.

With no further business,

MOTION: Dr. Marston motioned to adjourn. Mr. Morse seconded. The motion passed 4-0 and this October 19, 2000 Planning Board meeting ended at 9:37 p.m.