



**PLANNING BOARD  
TOWN OF EAST KINGSTON  
NEW HAMPSHIRE**

2005-2006  
*James Roby Day, Jr., Chairman  
Richard A. Smith, Sr., Vice Chairman*

**MINUTES**  
(Regular Meeting and Public Hearing of October 20, 2005)

**AGENDA:**

- 7:00PM– **Call to Order and Board Business**  
7:15PM – **Public Hearing** – for Glenn and Kathleen Clark, 21 Burnt Swamp Road (MBL 10-4-8) involving a lot line adjustment (PB #05-08)  
7:45PM – **Continued Public Hearing** – for Glenn and Kathleen Clark, 21 Burnt Swamp Road (MBL 10-4-8) involving a proposed 12-lot subdivision (PB# 05-07)  
8:30PM– **Public Hearing** – for a Home Occupation of William Sullivan (MBL 17-4-3) for a mail order sales business  
8:45PM– **Public Hearing** – for Brian Beattie (MBL 14-3-5) involving a lot line adjustment (PB #05-09)  
9:00PM – **Compliance Public Hearing** – for a proposed 22-lot subdivision of Bowley Real Estate, LLC, involving MBLs 1-1-1 and 2-2-3 (PB #05-01)  
9:30PM – **Discussion Only** – for Mike Sullivan for a possible subdivision  
9:45PM – **Discussion Only** – for Sylvia Remmy, Realtor in regard to 87 Depot Road (MBL 4-1-6)  
10:00PM– **Adjournment**

**CALL TO ORDER AND BOARD BUSINESS**

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

**ROLL CALL:** Mrs. Helen Lonek called the roll.

Members present– Mrs. CE Belcher, Chairman JR Day, Dr. RA Marston, DVM. Vice Chairman RA Smith; Mr. R Morales, ex-officio  
Alternate member present – Mr. EA Lloyd  
Advisers present– Dr. Jill Robinson, Rockingham Planning Commission Senior Planner (RPC); Fire Captain A Conti, East Kingston Fire Department, Mr. RR Donald, East Kingston Building Inspector, Mr. DG Quintal, Conservation Commission

**BOARD BUSINESS:**

**Designated voting member** – Mr. Day noted that Mr. EA Lloyd is the designated voting member.

**Minutes–**

**MOTION:** Mr. Morales **MOVED** that the Board accept the minutes of the September 15, 2005 meeting as corrected. Mrs. Belcher seconded and the motion carried unanimously.

**Action/Info Items–**

**Department Head Meeting with Board of Selectmen** – Mr. Day stated that this meeting centered primarily around budget questions and tax rate. He added that the increase to the tax rate is a little less than 2% and the Selectmen attributed the increase in part to the Co-op and cost of energy. He stated that they were asked to hold budgets to a 0% increase. He added that if the Board continues to spend the way it has been, we will end up in the black at the end of the year \$6,800.

**Materials** Mr. Day noted a corrected page of the Master Plan, page 9 of the Natural Resources chapter amongst the handouts. He stated that it is an administrative correction.

**November Agenda** Mr. Day stated that we will hold a meeting in November for the annual Growth Control ordinance review and asked Dr. Robinson for help with it. He stated that the Board needs to decide if it should continue growth control or let the ordinance lapse.

**Building Inspector/Tebo** Mr. Day stated that Mr. Tebo has approached Mr. Donald with a prospective buyer for one of his elderly housing units who wants to finish the attic of the unit. Mr. Tebo told the buyer that he couldn't do it, and Mr. Donald refused to give a building permit. Mr. Ray Donald explained that there is a stairway going up to the second floor (attic) and at the top there is one side that is framed off, not finished, and on the other side there is an area that is 18' square. Mr. Day stated that the ordinance specifies 1,500 sq. feet of living space. Mrs. Belcher stated that if the builder cannot finish the rooms, then why would the buyer be able to do it. Mr. Day read from the ordinance, "No individual unit shall exceed 1,500 square feet of living space." The Board reached consensus that the building inspector was correct in not issuing a permit.

**Work Session** – Mr. Day stated that the CIP needs to be updated soon for the Selectmen. He asked the Board if they would be amenable to a work session in the next few weeks. He added that there are some zoning ordinance change recommendations to be considered as well. He added that Mrs. Belcher has suggested some changes to the Home Occupation ordinance, and he noted that various fees should be addressed.

**Memo from the Selectmen** – Mr. Day noted a memo from the Selectmen, the subject of which is Commercially Zoned Area. Mr. Morales stated that, during the two work sessions the Planning Board had with the citizens of the town for the Master Plan, the top items that came out as far as what they were looking to do besides the village concept was to increase the number of commercial businesses to increase the tax base and give some diversity. He noted that there are limited areas in the town where this would be possible. He indicated the intersection of Route 107 and South Road was at one time commercial. He stated that some time ago a citizens' petition changed it to residential. He suggested looking at that area to put into commercial zoning in line with the suggestions obtained at the visioning workshops. Mr. Day stated that there was some serious resistance to the idea.

Mr. Day noted the "old yacht club" (i.e., 10 North Road). Mr. Donald stated that the new owner has done some renovation to fix it up including roof work. He stated that he has told the owner that the business is no longer a grandfathered business. He stated that the owner is restoring classic cars at the building who told Mr. Donald that at some future time he may approach the Planning Board to get approval for a business. Everyone agreed that the building is much improved.

PUBLIC HEARING—FOR GLENN AND KATHLEEN CLARK, 21 BURNT SWAMP ROAD(MBL 10-4-8) INVOLVING A LOT LINE ADJUSTMENT (PB# 05-08)

Mr. Day opened the public hearing.

Mr. Day noted that the other lot involved in the lot line adjustment is the Hanscom-McKane lot (MBL 10-4-7).

Mr. Ken Berry, Beals Associates appeared before the Board for the applicant. He stated that this lot line adjustment is technically getting caught up procedurally. He added that what they are proposing to do is to take .575 acres from Mr. Clark's property, and that would be deeded to Hanscom-McKane (MBL 10-4-7) increasing their parcel from 3.9 acres to approximately 4.5 acres. He stated that it is a strip of land being left between the Clark property and the Hanscom-McKane property.

Mr. Day stated that the lot line adjustment has to be done because it affects another person's property. Mr. Berry stated that in exchange for the Hanscom-McKanes giving up their driveway access and having it relocated and giving an easement for fire protection, the Clarks are giving them the ½ acre of property. Mr. Berry stated that the State of New Hampshire only allows a certain number of driveway permits on a parcel of land.

**MOTION:** Mr. Morales **MOVED** that the Board take jurisdiction of the application for lot line adjustment for Glenn and Kathleen Clark (MBL 10-4-8) and Russell McKane and Holly Hanscom (MBL 10-4-7). Dr. Marston seconded and the motion carried unanimously.

Mr. Day stated that the easement should be depicted on the final plan, and he added that the Registry of Deeds requires the signatures of all the parties involved.

Mr. Day opened the floor to abutters, of which there were none and he closed the floor.

Mr. Day read from a suggested list of conditions raised during the review process:

1. Fire Department approval of fire pond design and acceptance of its installation and operation. Mr. Day stated that this can be part of the lot line adjustment, or it can be part of the larger development, or both.
2. Fire pond easement to be depicted on final plan.
3. Review of all easement language by Counsel for the respective deeds, with signatures completed by all parties prior to approved plan recording.
4. Certificate of Monumentation signed by Building Inspector.
5. Final mylar to include signature blocks for each of the parcel owners making application, with a note stating each of the signatories agrees to the lot line adjustment affecting their respective lots.
6. Final mylar together with full-sized and 11X17 copies to be submitted to the Board for Chairman signature and recording.
7. All fees and charges due the Town in connection with the subdivision, including, but not limited to the reviews of Town Counsel, Town Engineer, RPC Senior Planner and Fire Department and administrative costs incurred by the Town be fully discharged.
8. Final mylar to include licensed land surveyor stamp and signature.

Mrs. Belcher stated that she would be more comfortable making a decision on the lot line adjustment after the public hearing on the entire project. Mr. Berry stated that they are in no particular hurry for the lot line adjustment. Mr. Conti stated the lot line adjustment has to show the easement with the intent of the fire pond. Mr. Day suggested this hearing be continued until after the next public hearing.

**MOTION:** Mrs. Belcher **MOVED** that the Board continue this public hearing until the end of the 7:45 public hearing for PB #0507. Mr. Morales seconded and the motion carried unanimously.

Mr. Day closed the public hearing.

CONTINUED PUBLIC HEARING—FOR GLENN AND KATHLEEN CLARK, 21 BURNT SWAMP ROAD (MBL 10-4-8) INVOLVING A PROPOSED 12-LOT SUBDIVISION (PB# 05-07)

Mr. Day opened the public hearing for Glenn and Kathleen Clark's 12-lot subdivision proposal noting this meeting is a continuation from September 15, 2005.

Mr. Ken Berry appeared for the applicant and stated that he had new revised selected pages of the plan. He stated that the revision dates are October 12, 18 and 19. He noted Sheet C1 Existing Conditions showing the limits of the excavation area as best as can be determined. He noted the conventional yield plan Sheet X1 showing the graded driveway on Lot 6. He stated that it would be a switch back driveway. He stated that the limit of excavation line is continued to be shown on the plan profile sheet and the width has been changed to 20 feet at the recommendation of the Planning Board. He would be submitting a waiver request later in the presentation.

Mr. Berry noted Sheet E1 Erosion Control Plan, reflecting a new table referring to the culvert that is under Mr. Clark's driveway. He stated that the Reclamation Plan is now part of the plan set.

Mr. Berry stated that they have contacted the post office regarding the street name and it has been determined that it the road will be called Clark Road, and it will be on the plan set and the proposed deed.

With regard to fire protection, Mr. Conti stated that the fire department needs full sheet sets. Mr. Berry stated that the retention pond-area was expanded to be a fire pond, and the area used for detention purposes actually increased resulting in a more conservative design of the drainage analysis. He added they are expecting a review letter from Mr. Jay Stephens, the Town Engineer, which they will respond to.

Mr. Berry stated that the wetlands permit has been issued. He stated that Mr. LK Smith has asked for clarification on soil types from the soil scientist.

Mr. Berry stated that he has a proposed warranty deed for Lot #4 which includes the easements. He asked for any comments on it.

Mrs. Belcher stated that she has some concern regarding the devices that will be used to redirect water runoff, especially during the winter months. She asked how the water will drain under ice and snow. Mr. Berry stated that the dynamics of a detention pond is that the bottom of the detention usually doesn't freeze. He stated that the runoff will find a way under the snow into the drainage devices. He added that there is warm air in the culverts.

Mr. Berry stated that the petitioner respectfully requests a waiver from Typical Roadway Section (Page 29, Appendix C) of the Subdivision Regulations, which require pavement of 24 feet. They are requesting that they be allowed a width of 20 feet, 10 feet on either side of the center. It is the applicant's position that this would result in a safe situation as well as reduce the amount of impervious surface. Mr. Day stated that the Board has indicated that they would entertain such a waiver.

Mr. Day stated that during the site walk, the weather graphically demonstrated the problems with drainage. Throughout the entire walk of the property, the rain was heavy, and signs of problematic runoff and flooding was evident.

Mr. D. Quintal stated that the Conservation Commission has had numerous meetings with regard to this project, and there has been question as to whether the yield plan could actually be built. Mr. Berry stated the regulation requires that two conceptual plans be provided; one plan to show a standard subdivision and one to show a conceptual plan. He added that there is nothing in the ordinance that says the building plans have to be plans that the developer would actually want to build. He stated that he thought this was a classic example of why the Conservation Subdivision Ordinance is a benefit.

Dr. Robinson concurred with the Conservation Commission that it is her understanding that they need a drainage plan in order to know if the drainage would work on this lot, or what type of information would be needed. Mr. Quintal stated that most of the subdivisions that have gone through in the Town were on flat surfaces and drainage was not a major issue. He added that this subdivision is on steep slopes, which are a concern. He stated that the Town needs to verify that the conventional plan can be done.

Dr. Robinson asked if the differences would be due to the land now being wooded. Mr. Quintal stated that wooded slopes would be pervious surfaces versus clearing, grass, gravel or pavement, plus the slopes will generate ditch line runoff. He added that all the water would be dumping onto Route 107A.

Dr. Robinson stated she was glad to see the waiver request regarding road width. She added that the Conservation Subdivision or cluster subdivision being proposed is an improvement, but the Town does not want to create a subdivision that is going to be more dense than what would otherwise be allowed. She stated that the cluster ordinance works to balance the overall density on a particular parcel with the benefits of clustering while having some freedom in the lot configuration. She stated that it does not make sense to include a lot where a multiple switchback driveway would be needed to be used, as this would not be allowed under a conventional plan. There is supposed to be a relationship between the yield plan and the eventual site plan. She added that that is why the Board goes through the whole exercise. She also has concerns about the steep slopes and if the yield plan could actually work. She stated that it is well within the Board's right to ask for the additional information to show the yield plan could be built. This information will assist the Board in its decision-making.

Mr. Berry stated that it is very clear they must comply to the zoning ordinance; it does not say anything about the subdivision regulations. Mr. Day stated that they are inextricably linked. He added that the subdivision regulations reflect the intent as well as the letter of the ordinance and it is designed that way by statute.

Mrs. Belcher stated that she agreed with Dr. Robinson to the extent that if this were a flat piece of property, there would not be drainage concerns. She added that after going on the site walk and looking at Lots 5, 6 and 7, she had second thoughts about the viability of safe development in those areas as well as how it would benefit the community. She added that she thought developing those slopes would only create more problems. Though the second plan is more palatable than the first introduced, she still has questions about its viability.

Dr. Marston stated he agreed with Dr. Robinson and Mrs. Belcher. Mr. Morales stated he shares their concerns. Mr. Day stated that the Board does not have sufficient information with specific regard to drainage. Mr. R Smith stated he sees problems with the drainage. Mr. Day stated that he thought a good drainage analysis for the conventional plan was needed even though it was not going to be built that way. The zoning ordinance is clear in its intent that the conventional plan be do-able.

Mr. Day stated that this goes back to the concern of the use of slopes of 15% or greater. This plan is marginally better than the previous one, and Mr. Berry has done a superb job in his engineering work. The fact remains that this still does not acknowledge the Board's position that slopes of 15% or greater shall not be used for development. He added that this includes driveways and roadways. Mr. Day asked the Board if they should consider having the applicant go back and exclude the terrain with slopes of 15% or greater in their plan, or reject the application.

Mrs. Belcher suggested giving the applicant the opportunity to revise. She added that she did not want them to have to pay all the fees and start from scratch. Mr. Morales agreed and added that he thought any slopes of 15% or greater need to be excluded on a revised plan. Dr. Marston, Mr. Lloyd and Mr. R Smith all agreed.

Mr. Day opened the floor to abutters.

John Barrett, 17 Burnt Swamp Road, stated he agreed with the Board members. He stated that when the gravel pit was opened they weren't supposed to dig and make any slope over 2:1; they have clearly violated this requirement.

With no further public comment, Mr. Day closed the floor to abutters.

Mr. Day stated it is his understanding the Board is asking the applicant to go back and develop a plan which does not involve the use of terrain with slopes of 15% or greater. This is for the conventional as well as the cluster plan. He noted that this is probably the only piece of terrain in East Kingston with this serious of a problem with slopes.

Mr. Berry requested the public bearing be continued so that he could confer with the applicants about the Board's request for a new plan which subtracts slopes greater than 15%. He requested a copy of the Minutes so that he can update his client accurately. Mr. Berry stated that he appreciated the Board's time.

Mr. Day commended Mr. Berry's work stating it is probably the best engineering work he's seen come before this Board.

**MOTION:** Mrs. Belcher **MOVED** that the Board, at the request of the representative of the applicant, continue the subdivision application hearing to 7:30PM on November 17, 2005. Mr. Morales seconded and the motion carried unanimously.

Mr. Berry also requested the hearing for the lot line adjustment be continued.

**MOTION:** Mrs. Belcher **MOVED** that the Board, at the request of the representative of the applicant, continue the lot line adjustment hearing for Glenn and Kathleen Clark (MBL 10-2-8) and Russell McKane and Holly Hanscom (MBL 10-4-7) to 8:15PM on November 17, 2005. Dr. Marston seconded and the motion carried unanimously.

Mr. Day closed the public hearing.

## Board Business:

**Kingston Public Hearing.** Mr. Morales asked about the meeting in Kingston regarding Rowell Road. Mr. Day stated that he would be attending the meeting. Mr. Morales stated that a Kingston resident came to the Board of Selectmen and the Board of Selectmen basically reiterated that the Town and the Planning Board were against giving access to a Kingston property through East Kingston. Mr. Morales stated that Rowell Road was closed in the 1930's. He added that the only way to get access to the resident's property is through East Kingston. He added that if this were allowed, the Town of East Kingston would be responsible for municipal services. He stated that the resident was seeking legal recourse and writing letters. He added that there is no other access to this piece of property. Mr. Day stated the meeting is on November 7, and that the original Rowell Road went through East Kingston and Kingston to New Boston Road. Kingston discontinued their portion of the road in 1936, and the land has been absorbed into developed lots. Mr. Day added that he hoped Kingston would find their own solution.

**Affordable Housing.** Mrs. Belcher stated that at some point the Board needs to address the issue of affordable housing and include it in the ordinance. She stated that mobile homes do not count as "affordable housing" and the Town must accommodate the statutory requirement to provide opportunity for it.

## PUBLIC HEARING—FOR A HOME OCCUPATION OF WILLIAM SULLIVAN(MBL 17-4-3) FOR A MAIL ORDER SALES BUSINESS

Mr. Day opened the public hearing.

Mr. William Sullivan (77 Giles Road) appeared before the Board. He explained that he wanted to operate an antique auto parts mail order business out of his home. He stated he sells reproduction parts. He added that he would not be towing home junk cars or parking them in the yard. The types of parts in question consist of window trim, headlights, rubber parts, grills. He stated that he does not do any restoration. He focuses on Ford V-8's from the early 1930's.

Mr. Sullivan stated that he advertises in antique car publications and through word of mouth and flea markets. He buys parts from a wholesaler and resells them.

Mr. Day read from the list of permitted uses. Mr. Sullivan stated that he thought his business fell under the "hobby" category. Mr. Day stated that the activity must meet certain standards and he read from the ordinance.

1. Home occupation must be located within a dwelling unit, or in a building or other structure accessory to the dwelling unit. Mr. Sullivan stated he would be working out of his garage. Mrs. Belcher asked where the office part of the business would be conducted. Mr. Sullivan stated that he would use a small area in the house for a computer.
2. Exterior of the building must not create or display any evidence of the home occupation, except a permitted sign. Variation from the residential character is prohibited. Mr. Sullivan stated he would need no sign.
3. Not more than one commercial vehicle may be kept overnight at the premises unless shielded from sight by garage, fencing, etc. Mr. Sullivan stated that he only has a personal vehicle, and there would be deliveries by Federal Express and UPS.
4. Adequate off-street parking must be provided and used. Mr. Sullivan stated there would be no customers, thus no parking.
5. Home occupation must be conducted by the resident of the premises. Mr. Sullivan is the owner and resident.
6. The home occupation must not offend by emitting smoke, dust, odor, noise, gas, fumes, lights or refuse.
7. Home occupation must not create hazardous traffic conditions – no customer traffic.
8. Home occupation use of the dwelling unit must not utilize more than 25% of the gross floor area (including basement and accessory structures) of the dwelling. Mr. Day stated that the house's square footage is 2,880, and the space is 24X24, so it is less than the 25%.
9. Not more than two non-residents (of the premises) may be employed at the premises. Mr. Sullivan stated that he is the only employee.

Mr. Day explained that the Planning Board only recommends to the Board of Selectmen that they issue a home occupation permit.

In response to Board inquiry, Mr. Sullivan said the name of the company is V8 Shop, there will be no hazardous chemicals stored on site, customer contact would be via email/internet, telephone, US mail and flea markets.

Mr. Day opened the floor to abutters of which there were none and he closed the floor to abutters.

**MOTION:** Dr. Marston **MOVED** that the Board recommend to the Board of Selectmen that they grant a home occupation permit to William Sullivan for an antique auto parts distribution business at 77 Giles Road. Mr. Smith seconded and the motion carried unanimously.

It was suggested that Mr. Sullivan call the Administrative Assistant at the Selectmen's office to get on their agenda for the next Board of Selectmen meeting.

Mr. Day closed the public hearing.

PUBLIC HEARING--FOR BRIAN BEATTIE (MBL 14-3-5) INVOLVING A LOT LINE ADJUSTMENT(P' B #05-09)

Mr. Day opened the public hearing for Brian Beattie regarding properties identified as MBL 14-3-5 and 14-3-10.

Mr. Steve Bradstreet, of Aquarion Engineering Services, appeared before the Board representing Mr. Beattie and Mr. Wayne Ewald. He stated that Jones & Beach did the surveying and he did the design of the fire pond. He added that they received subdivision approval on December 17, 2004 with conditions. He stated the conditions consisted of approval by the fire chief, approval by the attorneys, approval of the maintenance agreement and easement language, and NHDOT driveway permit, and the fencing around the fire pond be approved. He stated that everything has been done and there has been discussion between Brian Beattie and Wayne Ewald.

Mr. Bradstreet stated that frontage requirement for a lot is 200 feet. Previously the fire pond was 40X80 parallel to the road. Mr. Ewald asked Mr. Beattie to reconfigure the pond by turning it 90 degrees allowing more frontage and less easement. New dimensions of 200 feet frontage with 25 foot easement included. He stated that there is a land swap to make up for the easement revision.

Mr. Day stated that if Mr. Beattie is planning on reorienting the fire pond, he is actually modifying the original approved plan. The fire department has to have their comment. Mr. Bradstreet stated that there is no change to the design of the pond other than rotating it to accommodate the property boundaries that Mr. Ewald had requested. Mr. Day stated that the Board has to be a part of this change process --he cannot reconfigure without Board's review and approval.

Mr. Day stated that the Board can move forward with the lot line adjustment, but the fire department must review the fire pond changes. Mr. Conti stated that the orientation of the fire pond is the Planning Board's problem, not a fire department problem. He added that if it is the same design and same dimensions, then the approval would remain.

Mr. Morales recalled that there was a swale that drained into the fire pond, and therefore, the Board would need to see a new set of plans.

Mr. Day stated this may require a look at the topography to make sure the drainage is sufficient for that orientation and this would involve another hearing. He suggested granting a conditional approval of the lot line adjustment so they need only to address the plan revision. Mr. Day stated that if the Board had known this was as big a change as it is, they probably could have saved Mr. Beattie some money through the notification process.

Mr. Bradstreet stated that the proposed configuration requires rotating the pond to a vertical position giving Mr. Ewald 175 feet of unencumbered frontage with 25 feet encumbered with an easement. He added that, in doing so, they would deed a piece of property at the rear and left of the property to Mr. Ewald in exchange.

Mr. Day stated that it was a land swap. Mr. Bradstreet stated that Mr. Ewald does not want to give the land to Mr. Beattie and did not ask for any money for the land, so they decided to swap a piece of land. He stated that the piece of land is the same size as the easement for the fire pond. Mrs. Belcher stated she was surprised they didn't just add a piece to the back of the property instead of making the odd sized stick shaped piece protruding at the back of the lot.

Mr. Day cited "Subdivision Regulations Section VII – General Requirements for the Subdivision of Land. A. At no point shall any lot be narrower than one hundred twenty-five feet (125')". He suggested adding the land to the top of Mr. Ewald's property instead of the narrow piece, and making it a condition of approval that the back line be adjusted to preserve the stricture of 125 feet. Mr. Beattie stated that the piece of land connects property owned by Mr. Ewald in the back.

Mr. Day opened the floor to abutters, of which there were none and he closed the floor to abutters.

Mr. Day read his suggested list of conditions:

1. Fire Department approval of fire pond design, and acceptance of its installation and operation.
2. Fire pond easement to be depicted on final plan.
3. Review by Counsel of all easement language for the respective deeds, with signatures completed by all parties prior to approved plan recording.
4. Certificate of Monumentation signed by Building Inspector.
5. Final mylar to include signature blocks for each of the parcel owners making application, with a note saying each of the signatories agrees to the lot line adjustment affecting their respective lots.
6. Final mylar together with full-sized and 11X17 copies to be submitted to the Board for Chairman signature and recording.
7. All fees and charges due the Town in connection with the subdivision, including but not limited to, the reviews of Town Counsel, Town Engineer, RPC Senior Planner and Fire Department, and administrative costs incurred by the Town be fully discharged.
8. MBL 14-3-10 rear boundary reconfigured to preserve a minimum of 125' lot width.

**MOTION:** Mrs. Belcher **MOVED** that the Board invoke jurisdiction of the application for a lot line of adjustment for the property owned by Mr. Beattie and Mr. Ewald. Mr. Morales seconded and the motion carried unanimously.

**MOTION:** Mr. Morales **MOVED** that the Board grant conditional approval of the lot line adjustment of Messrs. Beattie and Ewald with the eight conditions previously enumerated. Mrs. Belcher seconded and the motion carried unanimously.

Mr. Day closed the public hearing.

COMPLIANCE PUBLIC HEARING—FOR A PROPOSED 22-LOT SUBDIVISION OF BOWLEY REAL ESTATE,LLC,  
INVOLVING MBLs 1-1-1 AND 2-2-3(PB #05-01)

Mr. Day opened the compliance public hearing for Bowley Real Estate, LLC with Mike Garrepy.

Mr. Day noted the Notice of Decision, dated July 24, 2005 as well as the letter from Mr. Garrepy addressing the conditions.

Mr. Garrepy went through the list of conditions of approval:

1. NHDOT approval for Squire Way intersection. Mr. Garrepy stated they expect the permit within the next day or two.
2. East Kingston Building Inspector approval for Winslow Way intersection. Mr. Garrepy stated that Mr. Donald has verbally assured him that he is satisfied with the sight distance at this intersection. Mr. Day requested something in writing from Mr. Donald.
3. Signage to be approved by the Board of Selectmen/Building Inspector. Mr. Garrepy stated that they have no proposed signage except for the appropriate street signage.



There was some confusion as to where the newly revised plan set was, either at the Town Offices or misplaced. Mr. Garrepy assured the Board that if they could not be found, additional copies would be supplied. He added that there would be another revision adding DOT permits, etc.

4. East Kingston Fire Department approval of fire suppression provisions. Mr. Garrepy stated that a letter of approval has been received from the Fire Department dated September 20, 2005.
5. A note on the final plan pages stating the minimum capacity of the cistern to be 30,000 gallons. Mr. Garrepy stated on this is on Sheet FP1 and FP2.
6. Fire Department functional test and written acceptance of fire suppression systems prior to building permit issuance. Mr. Garrepy asked consideration from the Board allowing for non-combustible construction to occur prior to the cistern being operational. He added that this includes site work, septic installation, foundation, etc. Mr. Day stated that the Fire Department has no problem with that, and Mr. Conti concurred.

Mr. Donald stated that the building permits are going to be a little difficult to handle if just foundations are put in before the cisterns are put in. He added that the Building Inspector is going to end up issuing a building permit for the footprint and then they will have to resubmit for the rest of the building permit for living space.

7. Adequate bonding to protect Rowell Road from construction equipment damage. Mr. Garrepy stated that they accept this requirement as a condition of approval. To be implemented by Board of Selectmen.
8. Adequate bonding for Winslow Drive and Squire Way construction/acceptance. Mr. Garrepy stated that they accept this requirement as a condition of approval. To be implemented by Board of Selectmen.

Mr. Day stated that before he signs a mylar, he will check with the Selectmen to make sure the bonds are in place. Mr. Garrepy stated that he has prepared a construction cost estimate for the work to be completed on site as well as the Rowell Road damage protection and he submitted it to the Planning Board. He added that this was prepared by his engineer, and he assumes that this information then goes to the Town Engineer for his review and approval. He stated that once the bond dollar amount is set, the bond language can be put together. Mr. Garrepy stated that as he understands the process, the number is verified by the Town Engineer who makes a recommendation to the Selectmen. Mr. Garrepy then bargains with the Selectmen. He stated that he also understands that the bond has to be in place before the mylar is signed.

9. A three (3) year bond for tree and vegetation protection. Mr. Garrepy stated that they have added a note to the landscape plan sheets A2 #14 and L1.
10. Inspection of erosion and sediment control measures by East Kingston Conservation Commission and Town Engineer. Mr. Garrepy stated that he accepted this subsequent to the approval.
11. Certificate of Monumentation signed by the East Kingston Building Inspector. Mr. Garrepy stated that he accepted this requirement and this would happen as soon as the monuments were set.
12. Newly created MBL numbers obtained by the Town Office and noted on final mylars and copies. Mr. Garrepy stated that he met with the Administrative Assistant have indicated the MBLs as well as the house numbers.
13. Planning Board approval and Town Counsel review of restrictive covenants/homeowner language.
14. Open space to be held in perpetuity by Homeowner's Association and deed restriction to be reviewed by Town Counsel.
15. Review and approval of all easements, covenants and deed language by Town Counsel. Deed language for Lots 1-3 sharing a driveway to include a description of shared maintenance responsibilities for the driveway and guardrail.

Mr. Garrepy stated that Nos. 13, 14 and 15 all relate to review of legal documentation and he stated that he has submitted covenants, homeowner's association documents, shared driveway language, deed language, maintenance to Town Counsel.

16. Final plans to include a note on the sheets to be recorded indicating they are part of a 22-page plan set on file with the Town. Mr. Garrepy stated that this note is on Sheets A-1, A-2, A-3 and A-4, the sheets to be recorded.

17. Professional Engineer and Soils Scientist stamps and signatures on final mylars and copies. Mr. Garrepy stated that all required professional stamps and seals shall be affixed to the plan sheets.
18. Final mylar pages A1, A2, A3 and A4 together with full-sized and 11X17 copies to be submitted to the Board for Chairman signature and recording. Mr. Garrepy stated that this will be done.
19. All fees and charges due the Town in connection with the subdivision, including but not limited to the review of Town Counsel, Town Engineer, RPC Senior Planner and Fire Department and administrative costs incurred by the Town be fully discharged. Mr. Garrepy stated they will pay all the bills as soon as they get the final invoices.
20. A compliance hearing to be conducted prior to final approval to assess conditions completion. Presently being done.
21. Town boundary to be revised on Sheet A1. Mr. Garrepy stated this has been done. He added that his surveyor still feels that there are two bounds that are described as town bounds; he said he had not been out to verify it. Mr. Day stated that he walked the bounds some years ago and there was only one bound, but suggested Mr. Garrepy take Mr. LK Smith with him when they inspect it.
22. A note on plan A2 "Lighting on individual homes shall comply with the following standards:
  - A. No light shall spill onto neighboring lots.
  - B. No lights poles shall be higher than eight feet.
  - C. All lights fixtures shall be full cut off or fully shielded such that light fixtures do no create glare to motorists or neighboring lots." Mr. Garrepy stated that this has been added to the plan set.
23. It is the intent of the Planning Board that all notations on the mylar as well as any unrecorded plan sheets are incorporated into and are enforceable as conditions of approval. Mr. Garrepy stated that he accepts this as a condition of approval.
24. Note on plan Page A2 stating applicant will mark the area of the landscape buffer with No Cut/No Disturb marker or signage on each lot. Mr. Garrepy stated that this has been completed. Discussion ensued as to what type of marker would be put up either on the trees or a sign post. Mr. D Quintal stated that it should be clarified. Mr. Day stated he would defer to the Conservation Commission. Dr. Robinson stated that Exeter has some pre-made markers that could be a model. Mr. Quintal stated that sometimes the markers on the trees just become shooting targets. Mrs. Belcher stated that it will be on the mylar, but it should also be on the deed and in the covenants. Mr. Morales stated that it's much easier to enforce if it is in the deed as well. Mr. Day suggested Mr. Garrepy work with Mr. LK Smith.

Mr. Garrepy showed where the landscape buffers are located. He stated that he didn't think the whole property needed landscape buffers. Mr. Morales stated the common land should be defined and one would hope the residents would know that the common land could not be touched without proper approval. Mr. Day stated that if he bought a parcel, he would want to know where the bounds were located. He added that since there is overlapping of common land and buffer zones and unless the owner is fully aware that his land is so encumbered, one might do something to the trees intentionally or unintentionally.

Mr. Day stated that whichever lots are affected by the landscape buffer ought to have that reflected in their deeds. Mr. Day suggested Mr. Garrepy work with the Conservation Commission. Mr. Morales stated he thought the markers should be in place before building permits are issued so when the land is cleared it is clearly indicated where the boundaries are. Mr. Quintal suggested a note on the plans with a stipulation that the markers will be placed and checked by the Conservation Commission prior to issuance of building permits.

Mr. Quintal stated that it should be a condition of approval and suggested that the Conservation Commission review and inspect the markers prior to issuance of the building permits. Mr. Donald stated that there has to be some way to flag this so the building inspector knows this is a condition of approval before issuing building permits.

Mr. Quintal stated his concern with the type of marker to be used. Mr. Day stated that the Conservation Commission will review and inspect the type of landscape buffer marker to be used. Mr. Morales asked if this could be put in the ordinance or regulations, Mr. Day stated that that could be done in a work session.

Mr. Day stated there will be two added conditions: The Conservation Commission will review and inspect the type of landscape buffer markers to be used, and the landscape buffer markers will be installed for inspection by the building inspector along with the monumentation.

Mr. Day referred back to Conditions 13, 14 and 15 to which he has gotten feedback from Town Counsel. He noted counsel's comment that grammar throughout the covenants is atrocious. Mr. Garrepy stated that they have used the same covenants in many subdivision and they have never had an attorney remark about the grammar. He added that he is going to ask Town Counsel for specific references. Mr. Day stated that Town Counsel said there were so many grammatical errors, that he didn't want to do their homework for them.

Town Counsel's concerns regarding the covenants were:

1. Grammar throughout the covenants is atrocious.
2. Pg. 8, para. 16. There are different kinds of easements, and their descriptions, uses and limitations should be clearly stated in the covenants and deeds, as well as reflected on the plans.
3. Pg. 11, para D.1. Violations of the Declaration of Open Space should be enforceable by the Homeowners' Association and the Town.
4. Pg. 13. There should be language specifically stating that the Open Space/conservation features are to be protected in perpetuity, despite what might happen with other provisions of the covenants.

Mr. Day stated that he is going to address the questions of landscape buffers in deeds so that Town Counsel knows that the Board is looking to require that.

Mr. Day stated that there is now a reduced list of conditional items. He stated that, in the past, the Board entrusts the Chairman to follow up on those items. Mr. Day went through the list of eight new conditions:

1. NHDOT approval for Squire Way intersection.
2. East Kingston Building Inspector written approval for Winslow Way intersection.
3. Planning Board approval and Town Counsel review of restrictive covenants/homeowner language.
4. Open space to be held in perpetuity by Homeowner's Association and deed restriction to be reviewed by Town Counsel.
5. Review and approval of all easements, covenants and deed language by Town Counsel. Deed language for Lots 1-3 sharing a driveway to include a description of shared maintenance responsibilities for the driveway and guardrail.
6. The Conservation Commission will review and inspect the type of landscape buffer markers to be used and approve them.
7. Landscape buffer markers will be installed to be inspected by the Building Inspector together with the monumentation.

Mr. Garrepy stated they would be selling lots individually and selling them to builders.

**MOTION:** Mrs. Belcher **MOVED** that the Board grant conditional approval of the Bowley Real Estate LLC cluster subdivision with the seven conditions. Mr. Morales seconded and the motion carried unanimously.

Mr. Day closed the public hearing.

#### DISCUSSION ONLY – FOR MIKE SULLIVAN FOR A POSSIBLE SUBDIVISION

Mr. Day opened the meeting to discuss with Mike Sullivan regarding property located on Depot Road.

Mr. Mike Sullivan, 1382 Province Road, Stratford, appeared before the Board. He stated the property he has in mind is 46 acres at the end of George Street, which is for sale.

Mr. Day explained that this was a non-binding discussion only.

Mr. Sullivan stated the property is MBL 4-2-11. He stated that there is a house located on the front of the property. He stated that it goes back 1,000 feet and there are power line easements back there, but there is no other road to access the property. He asked if he could create a loop road. Mr. Morales stated that there could be a problem putting in a road where there are buffers that are needed on each side. Mr. Sullivan stated that he would probably

need a lot line adjustment from MBL 4-2-8 (Newman) to make a horseshoe road feasible. Mrs. Belcher stated that that lot is already non-conforming and he would not be allowed to make it more non-conforming. Mr. Sullivan stated that there are wetlands, which would be a good place for a fire pond. Mr. Day stated that the State does not like wetlands to be used for fire ponds. Mr. Quintal stated he might be able to get a permit for a small portion of the wetlands.

Mr. Day stated that it is difficult for the Board to make recommendations or hold discussions as they do not have an intimate knowledge of the property, although they understand it is very wet in back. He added that he thought it might be difficult to develop, but he didn't want to discourage Mr. Sullivan. There is also a limit of 1,000 feet to cul-de-sac length, which would be measured from Route 107, and not the end of George Street. Mr. Morales suggested looking to see if there is another road access to the property, which could open some other possibilities. Mrs. Belcher suggested he hire an expert to take a look at the feasibility of developing the property.

Mr. Sullivan thanked the Board.

Mr. Day closed the discussion.

DISCUSSION ONLY – FOR SYLVIA REMMY REPRESENTING MARK WILLIAMS, 87 DEPOT ROAD

Mr. Day opened the discussion with Sylvia Remmy regarding property at 87 Depot Road.

Ms. Sylvia Remmy, realtor representing Mark Williams, property located at 87 Depot Road (MBL 4-1-6). She is proposing subdividing the 5.23-acre parcel into two lots. Noting the backlot provisions of the ordinance, Mr. Quintal stated that it has to be verified that there are less than 6 acres of very poorly drained soil and for a back lot it has to be 3 acres and that the wetlands need to be delineated. Once this has been determined, then it can be decided how to configure the two lots. She stated that she might find out that it is not subdividable.

Mr. Day stated Ms. Remmy would have to get an application to the Board three weeks prior to the meeting, which would be October 27.

Mr. Day closed the discussion.

ADJOURNMENT:

**MOTION:** Dr. Marston **MOVED** the Board adjourn. Mr. Morales seconded, and the motion carried unanimously at 10:30PM.

Respectfully submitted,

Helen M. Lonek  
Recording Secretary

Approved on: 12/8/05