



PLANNING BOARD
TOWN OF EAST KINGSTON
NEW HAMPSHIRE

2006-2007:
James Roby Day, Jr., Chairman
Catherine Ellen Belcher, Vice Chairman

MINUTES
(Regular Meeting of 16 November 2006)

AGENDA:

- 7:00PM - **Board Business**
- 7:15PM - **Public Hearing** for new Zoning Ordinance Article III.A. – Town Center District
- 7:30PM - **Public Hearing** to adopt new Subdivision Regulation (SR) Section IV – Procedures, paragraph A
- 7:45PM - **Public Hearing** to update the Master Plan Community Profile chapter
- 8:00PM - **Continued Board Business**
- 8:30PM - **Adjournment**

CALL TO ORDER: Chairman Day called the regular meeting of the East Kingston Planning Board to order at 7:05PM.

ROLL CALL: Mrs. White called the roll.

- Members present** – Vice-Chairman CE Belcher, Chairman JR Day, Mr. RF Morales, ex-officio, and Mr. RA Smith, Sr.
- Alternate members present** – Mr. DF Sullivan
- Advisors present** – Dr. JR Robinson, PhD, Senior Planner, Rockingham Planning Commission (RPC)
 - Mr. RR Donald, East Kingston Building Inspector
 - Mr. A Conti, East Kingston Fire Captain
 - Mr. LK Smith, Chairman, East Kingston Conservation Commission

BOARD BUSINESS:

Minutes – Mr. Day addressed the Regular Meeting 19 October 06 minutes to the members for their approval. Corrections were noted and the minutes will be amended as identified.

MOTION: Mr. Morales **MOVED** the Planning Board accept the East Kingston Planning Board minutes of 19 October 06 as amended. Mrs. Belcher seconded, and the motion carried unanimously.

The minutes from 6 November 06 minutes were distributed, and will be voted on at the 14 December work/public hearing meeting.

Mr. David Sullivan – Mr. Day welcomed Mr. David Sullivan, new alternate Planning Board member, and introduced him to the Board members and advisors.

Thirty-five foot question – Mr. Day referred the Board to paragraph H.13. of the Town Center District proposal and stated that the 35-foot height designation was still included. He had spoken to Fire Chief Mazur in regard to this question, and will elaborate further when discussion gets to the Master Plan. Mr. Smith noted that the height reference had also been included in the Site Plan review ordinance so that storage buildings over 35-feet high could not be built. As such, in his opinion it should be taken out of both places. Mr. Day indicated that he did not disagree, and noted that the Board would address that particular item again when they went over the Town Center proposal.

Town Center District Ordinance Proposal – Mr. Day had spoken to Mr. John Daly, Town Counsel, regarding the Town Center District proposal hearing for tonight. Mr. Daly indicated that if changes were made even only to clarify some points, another public hearing would need to be held; if no changes were made, the hearing could be concluded.

SR Section VI, Procedures – Mr. Daly as Town Counsel had concerns regarding the rewrite of this paragraph. The Board will discuss those concerns during the public hearing.

Master Plan Community Profile Public Hearing – Mr. Day stated that when Mr. Glenn Greenwood (RPC Assistant Director) sent the Master Plan to him via e-mail, it caused problems with his computer and he could not edit or change it. Mr. Morales thought the problem could be with the embedded graphics, and suggested saving the document as a document with an “.rtf” extension, and then trying to edit it. Mr. Day explained that he would also be meeting with Mr. Greenwood to fine-tune the document.

In response to Mrs. Belcher's observation at the 9 November work session that perhaps the profile focused too much upon employment, Mr. Day noted that he had compared the new version with the current chapter and found that Mr. Greenwood had only updated existing information, as was requested.

House Pictures – Mr. Day passed around house pictures to the Board members that he had taken around Town to show local architectural styles. There was discussion of other house styles to be added to the list, such as the gambrel and Dutch colonial, and there was also a suggestion from Mrs. Belcher that the pictures be added to the Master Plan; Dr. Robinson suggested inclusion of the pictures in the Town Center proposal as well.

RSA 674.39 - Mr. Day noted that RSA 674.39 covers vesting, which addresses the question of the 4-year exemption from ordinance and regulation changes the Town might put in place. We need to be aware that our current Growth Management ordinance, which became effective 14 November 06, will only affect applications that come to us from this point on; existing lots of record cannot have growth management imposed for 4 years. Practically speaking, only new developments would be affected by growth management.

Planning Board Budget – The Selectmen have approved the Planning Board Budget of \$34,500 for the next year, reflecting an increase of 9% from 2006. The Board will investigate ways to save on overhead, including utilizing a different newspaper in which to publish notices. There are several newspapers to choose from, and most have different publication dates, which would allow for more flexibility for noticing. It was noted that the *Union Leader* publishes every day.

PUBLIC HEARING FOR NEW ZONING ORDINANCE ARTICLE III.A. – TOWN CENTER DISTRICT

Mr. Day opened the public hearing.

Mr. Day relayed information from John Daly, Town Counsel, that he approved the Town Center District proposal as presented to him, but Mr. Daly stated that even if changes were made only for clarification and did not affect the intent, a new public hearing would need to be held. Mr. Day interpreted the statute as saying that administrative adjustments were allowed without the need to a new hearing, but not substantive adjustments. Counsel determined that any changes made to the ordinance this evening could be construed as substantive, thereby requiring a new hearing.

Mr. Morales reflected that the only article that had needed adjustment had been discussed at the work meeting, and referred the Board to page 3, Article H3 and H4– Fenestration and Windows. Mr. Day stated he had measured his own house and found that the frontal view fenestration was 23%, counting doors, dormers, and windows. If the dormers and roof were not counted, fenestration would then amount to 37%.

Dr. Robinson clarified that the definition she had offered referred to lineal feet and not square footage, but that the Board had the authority to denote what they thought best for the Town Center. She thought including an example would be helpful.

Mr. Day reviewed that the Town Center District is an effort to enable what already exists to further develop as a center of civic, residential, commercial and recreational activity. It would enable individual landowners to use the land in different fashions at the same time, where in the other zones, one would be restricted to what the zone is defined as. The Planning Board is trying to recreate, through ordinance, what naturally happened 100-200 years ago. It was noted that East Kingston had had two or three Town centers in the past.

Mr. Day explained that some years ago when New Hampshire started the "Main Street" development program, he had asked whether East Kingston might qualify. He was informed that East Kingston did not have a town center as such, so it would not qualify. To Mr. Day's question of what was needed to qualify, he was informed that a town center could be identified by such things as a square, a town green, or a civil war statue with a flagpole, and East Kingston had none of these.

Mr. Donald asked since Paragraph H.1. only listed specific building materials, was the use of aluminum or vinyl siding going to be excluded. He noted that there were several products on the market that look like clapboard or shingles in appearance, but are synthetic materials. Mr. Morales agreed that was a good point, and suggested rewriting the paragraph in such a way as to indicate if there were newer materials on the market which would give the same, look desired, they could be allowed. After intense discussion, it was decided that the sentence could be reworded as such, "...employing any material that gives the appearance of clapboard, shingle, brick or stone siding."

Referring to the same paragraph, Mr. Morales asked what type of shingles should be specified for the roof since there were several different kinds to choose from. It was decided that "...having the appearance of" should be added before the types of roof mentioned. It was also suggested that slate be added to the roofing types listed.

Dr. Robinson brought to Mr. Day's attention that in Paragraph E. Definitions, the percentage for Workforce Housing should be changed from 80%, as written, to 120%, because the State's definition of *affordable housing* is 80%. Affordable Housing was also defined as housing that does not cost more than 1/3 of a household's total monthly income. Mr. Day indicated he had acquired the numbers from materials provided by Dr. Robinson, who stated in that case, her numbers had been inaccurate.

Mr. Morales asked since it was based on a formula that changes and as the Planning Board did not want to have to change the ordinance every time the formula changed, could they refer to where the data came from? Dr. Robinson suggested adding after the percentage number, “*or as currently defined by the New Hampshire Housing Finance Authority.*” Mr. Day informed the Board that he and Dr. Robinson would get together and straighten out the figures. Mr. Morales suggested that anything that was variable should be tied to the source it came from.

Dr. Robinson had a question regarding Paragraph H. 11 Parking. She thought it best to encourage permeable surfaces, but not necessarily mandate it, as there might be instances where some pavement could be necessary. There was discussion on the pros and cons of pervious surfaces. Mr. Morales thought adding the phrase “*...are encouraged to use*” would define it more clearly. Dr. Robinson suggested fine-tuning the definition, as a more appropriate place in which to require permeable surfaces might be for overflow parking.

Mr. Day offered “*Permeable surfaces such as gravel are preferred and strongly recommended for parking areas for commercial activity, and shall be placed at the rear of buildings.*” Mr. Morales offered adding “*gravel or some other permeable surface*” since the Board did not want to continually rewrite the ordinance. Dr. Robinson suggested “*...such as gravel, particularly for overflow parking.*” Mr. Day and Dr. Robinson will smooth it out.

Dr. Robinson also asked about the caveat on page 3 that states, “*Where differences in permitted land use in the areas which overlap appear, the less restrictive provision shall apply.*” Since she usually saw *more* restrictive provisions, she asked why it was written as such. Mrs. Belcher explained that the Town Center District was more restrictive, and in the case such as a commercial district overlapping the Town Center District, the original commercial rights would be retained.

Mr. Day enquired if there were any more changes to Paragraph 2 or 3 on Fenestration. There were no changes, but Dr. Robinson suggested that an Appendix with a sample drawing, in addition to the percentage numbers, might be helpful for comprehension purposes.

Mr. Day directed the Board’s attention to page 4, Paragraph H13 and the 35-foot height maximum. He explained that in taking pictures of the housing types, he was also trying to clarify the 35-foot height issue. He had spoken to Fire Chief Mazur in regard to maximum building height requirements for fighting fires, who indicated that the height was 35 feet. Mr. Mazur indicated a full two-storey house with an attic and the 35-foot limitation would enable the fire department’s equipment to reach the top floor window; they have access to a roof no higher than 35 feet. Mr. Conti stated they might need to reach a chimney fire, for example.

Mr. Donald asked just where the measurement was to begin, and Mr. Day replied the measurement started at the foundation level. He also stated the traditional colonial-style house was 2 full stories with a peaked roof and did not measure 35 feet. A Cape Code-style house was a few feet lower because the roofline penetrates the second storey.

Mr. Day stated that the ordinance would not be contradicting the fire department’s requirements if the height were left at 35 feet. Mr. RA Smith stated that they were mixing two different issues, that is, what the Fire Department has given the Planning Board as the maximum height they need to sufficiently fight fires, and the Planning Board addressing the design of buildings and architectural drawings. It was his thought that the Planning Board needed to be discussing the size of the buildings, rather than the Fire Department’s needs. Mrs. Belcher agreed with Mr. RA Smith, and thought the height should be designated as two stories, and not 35 feet, so as not to have a similar problem as with the elderly housing.

Mr. Donald asked if it included the basement. Dr. Robinson suggested adding, “not including the basement”. The consensus was that H.13. should read, “*The maximum height of a building shall be two (2) stories, not including the basement.*”

Dr. Robinson enquired how you would designate it if it were a church with a steeple. After discussion, it was determined that the “two stories” definition would suffice.

Mr. Day opened the floor for comment.

Mr. Daniel L. Guilmette, 29 Main Street – Mr. Guilmette stated he owned two lots in the proposed Town Center area. The Board asked Mr. Guilmette to point out on the map where his property was located.

Mr. Guilmette enquired where else the concept of the Town Center had been tested in the State of New Hampshire. Dr. Robinson answered it had been tested in Fremont, Windham, and Littleton, and also some larger towns. Mr. Guilmette asked how long the concept had been in place, and Dr. Robinson answered it had been in place for a few years.

Mr. Guilmette had a question regarding Paragraph D and wanted to know what the Board’s definition of the word “magnet” was.

Mr. Day answered that at the present time, the commercial activity was limited to the existing commercial zone, which included *Jewett’s General Store*. In answer to Mr. Guilmette’s question of what “new commercial activity” was, Mr. Day explained that if Mr. Jewett wanted to expand, he could if there was a Town Center. Mr. Donald referred to Paragraph F.4. – Permitted Uses.

Mr. Guilmette asked how H.11. would be dealt with, and Mr. Day answered that that was the parking issue they had covered previously. It was then ascertained that Mr. Guilmette had a previous version of the proposal and he was directed to the table at the back of the room

where the most recent version was available. It was ascertained he was referring to number H.12. and how excessive street lighting would be dealt with. He referred to a previous problem in Newmarket and a gas station's lighting. Mr. Morales stated that lighting stipulations were covered in other ordinances as well.

Mr. Guilmette asked how the determination was made where to locate the Town Center District. Mr. Morales explained that the Board had had many, many meetings to determine the location. Mr. Day stated that at one time in the discussions, it had been suggested to make the Town Center reach as far as *Carmen's Diner*, but it was ascertained that having it spread out so far would dilute the Town Center concept altogether. Presently existing activities were looked at and the possibility of the kinds of development that would be encouraged. What is shown on the map is the logical area decided upon by the Board. Mr. Day stated that the lots had to have frontage on either Main Street or Depot Road, and that certain areas were purposely excluded, such as elderly housing which is, in itself, a departure from conventional residential zoning.

Mr. Guilmette asked what the impact on the tax structure would be, and Mrs. Belcher answered there would be no impact; it was only a matter of development. This would be an opportunity for the Town to use areas that were already zoned commercial and tie them into a Town Center. It would be up to the landowner if he or she wanted to open a bed and breakfast or an antique shop, for example. There would not be enough land for a *McDonald's* or a large apartment building, but multi-family housing for up to 4 units would be allowed, or enable a homeowner to receive some revenue from a property. Mr. Guilmette thanked Mrs. Belcher for her explanation, which now made the intent much clearer to him.

Mr. Day explained that the main concern for thinking of a Town Center was the question of sprawl in southern New Hampshire. The Board was hoping that the Town Center concept would act as a mechanism to focus sprawl away from outlying areas by encouraging development in the Town Center through multi-use zoning, rather than developing open space or agricultural land.

Mr. Day said Mr. Guilmette's criticisms and concerns were valid and encouraged. Mr. Guilmette answered that it was not criticism; he was just seeking information.

Mr. Guilmette asked when the next public hearing would be held on this issue. After discussion of the Board, December 14 at 6:30 PM was decided for the next public hearing on the Town Center proposal; there would be no work meeting in conjunction with the public hearing.

Mr. LK Smith offered the information that there was once another Town Center in the Tricklin' Falls area. Mr. Morales asked if yet another center might have been where the old stagecoach stop was, and Mr. LK Smith answered he thought not.

Mr. LK Smith referred the Board to Paragraph H.6. and asked why there was a problem with having garage doors facing the street if the property was wide enough? Mr. Day explained that that item had been taken directly from materials from Dr. Robinson, which recommended that garage doors not face the street where lot frontages were reduced. Mr. Donald offered it would be in keeping with the historical slant of the Town Center, and Mr. Day explained it had to do with aesthetics, which is a concern. It was Mr. LK Smith's contention that if the lot were wide enough to allow the garage doors to face the street, it would not be defensible in court. Dr. Robinson stated that there had been cases in New Hampshire concerning aesthetics and regulations dealing with architecture. Mr. LK Smith also enquired about J.3., parking in the rear of the building, and Mrs. Belcher stated that people would not want to drive down the street seeing parking lots filled with cars.

Mr. Day entertained a motion to continue the Town Center District proposal public hearing.

MOTION: Mr. Morales **MOVED** to continue the hearing on the Zoning Ordinance Article III.A. – Town Center District until 14 December 06 at 6:30pm. Mrs. Belcher seconded, the motion passed unanimously.

Mr. Day closed the public hearing.

PUBLIC HEARING TO ADOPT NEW SUBDIVISION REGULATION SECTION IV – PROCEDURES, PARAGRAPH A

Mr. Day opened the public hearing.

Mr. Day referred the Board to the new subdivision section paragraph that Mr. Morales had written, and Town Counsel's critique of it. Attorney Daly's opinion was that the new section might be unnecessary. Mr. Morales disagreed, and thought it was necessary to have clear documentation in the record each time an action was taken. Mrs. Belcher stated the question was tied to the timing to establish vesting with regard to active and substantial development of an approved subdivisions, and agreed it was necessary for tracking the activity tied to that timing.

Mrs. Belcher agreed that something was needed, but thought the second rewrite was quite difficult to understand. There was discussion on the procedures used to document the processes. Mrs. Belcher agreed it was a good idea for the Planning Board to set a process by which all standards could be tracked as met. Mr. Morales stated that the document used could be something as simple as a checklist. Mr. Conti thought it would be a good idea for all the departments to be aware of where each other was in the process.

Mr. Day asked the Board's permission to ask Mrs. Belcher to rewrite the section, and she answered she thought it only necessary to remove the last sentence in the first Paragraph A.

Mr. Donald asked for clarification in the following scenario. If the Planning Board approves a subdivision but the plans are not recorded, before the Building Inspector can issue a Building Permit, he had to make sure the Fire Department has signed off. Then at the end of the given timeframe, the Building Inspector would sign off on the occupancy certificate stating the he has done the necessary inspections and verified the house is built to code. This action is between the Building Inspector and the Fire Department, and not the Planning Board. Mr. Donald's thought was that only the first sentence in Paragraph A was necessary, since that was basically what they were already doing.

It was Mrs. Belcher's thought that the present method was working fine for recording plats, since Mr. Day was not signing the mylar until the Fire Department and Building Inspector have signed off. Mrs. Belcher stated she was referring to the amendment the Board made for active and substantial development, and the 4-year exemption described in RSA 674:39.

The Board determines what active and substantial development is. For example, after 4 years, unless you can show you have had active and substantial development, you are subject to a Growth Control Ordinance. If you do have active and substantial development, you would be grandfathered. It was Mrs. Belcher's understanding when the specifics were being written for active and substantial development, that was when the documentation is needed in order to track the development.

It is Mr. Donald's understanding that the Growth Control Ordinance does not prohibit anybody from building on any currently approved building lot, as long as the set backs are met within the 4 years. Mrs. Belcher stated that they still would need to show active and substantial development.

Mr. Donald asked what documentation would be necessary to prompt the Planning Board to say "yea or nay" in regard to vesting. Mrs. Belcher stated she thought that the Planning Board had already specified that, and Mr. Day stated they had.

It was Mrs. Belcher's reflection that perhaps active and substantial development should be clarified in the amendment previously made by the Board. Mr. Day answered that active and substantial development was defined as road infrastructure and fire suppression to be installed for building permits to be issued in a subdivision.

It was Dr. Robinson's belief that the paragraph could be shortened to one or two sentences that stated that documentation for meeting conditions of approval for a plan were necessary. Mr. Morales stated that besides starting the clock, wherever there was action necessary, somebody needed to know that action had been taken. It was Mr. Donald's view that there was already a paper trail in place for that process.

Mr. LK Smith interjected that the discussion has started with a question in the Building Inspector's procedures, and suggested a general statement be added at the beginning of that subdivision regulation section.

Dr. Robinson agreed the first paragraph was fine the way it was written

Mr. Day opened the floor for comment; there being none, the floor was closed for comment

The new section VI.A. will read as follows:

- A. Any action(s) taken under this regulation requires documented proof of the action(s), including verification in writing by the entity, board, or person. This written document shall be addressed to the entity, board, or person requiring said proof and signed by a duly authorized person of and on the entity's letterhead. The written document shall clearly state the action (s) taken, as well as the result(s) achieved from said action(s). (**Adopted 11/06**)

MOTION: Mrs. Belcher **MOVED** to adopt new Subdivision Section VI.A. by inserting the language presented by Mr. Morales. Mr. RA Smith seconded, and the motion passed unanimously.

Mr. Day closed the public hearing.

OTHER BOARD BUSINESS

Master Plan Community Profile Public Hearing - Mr. Day announced that the evening's final hearing on the Master Plan Community Profile chapter update would not take place, as he needed to meet with Glenn Greenwood to amend new information received into a workable format. Mr. Day stated the chapter update could be scheduled in January for a public hearing if necessary.

Capital Improvements Program (CIP) - Mr. Day stated that the CIP was complete and ready to send to the Selectmen. Mr. Morales enquired why there was no dollar amount included under the 2nd floor addition to the elementary school for 2007 on Table 11, and asked if the school was not intending to go to Town Meeting with a request for money. Mr. Day replied that the School Board had told him they were not concerned about it and would not be going to go to the Town until 2010. Mr. Morales asked if the school could wait until

the last minute to decide to ask for money, to which Mr. Day replied yes; since they were independent from the Town, they could assemble their warrant articles any way they wanted.

Mr. Day explained that he had finally gotten accurate numbers from the Exeter Regional Cooperative School District and inserted them into Table 11. Mr. Day stated he also had acquired the 20-year bond numbers for the middle school, high school, the Conservation Commission, and Police Station, so now all those numbers are predictable.

Mr. LK Smith suggested that the same bond notation as under the Police Station on Page 29, Table 9, also be inserted in the notes section following Conservation Easements. Mr. Day agreed to add that to the table. MR. LK Smith also enquired why there was no entry under land acquisition for the cemetery, and Mr. Day replied that the trustees had not gotten back to him with any information to update the table.

Mr. Morales pointed out that land acquisition for the salt shed had been added to the CIP this year; the Selectmen were still looking for the land. There were several suggestions where land might be for sale, and Mr. Morales stated that the Town was hoping for a donation so they would not need to purchase it.

Mr. Day stated that the Town Clerk, Historical Committee, and Recreation Committee had not gotten back to him with any changes.

Mr. Morales pointed out that if all the warrant articles were passed for 2007, the total tax impact would be \$2.37.

The Board agreed the CIP was ready to send to the Selectmen, and Mr. Day will do so.

Mr. Day stated that his suggestion for the Targeted Block Grant next year might be to work on updating the CIP language, since it would be 10 years old and might not reflect today's reality.

Sprinklers - Mr. Donald reported that the Fire Chief had informed him that in three year's time, there would be rule changes that will mandate all municipal buildings to be sprinkled. Mr. Morales answered that an endeavor of that magnitude would need to have State funding in order to be mandated.

21 December Agenda – Mr. Day reviewed with the Board that there are two items on the December agenda; the Elderly Housing annual review, and the cell tower issue (unless it is continued again). Mr. Day suggested rereading the ordinance and reviewing the distributed materials in order to be ready for the cell tower hearing, and Mrs. Belcher suggested everyone fill out the excellent spreadsheet Mr. Day had assembled to help them with their decision.

Planning Board Calendar – Mr. Day reported that the Planning Board was right where it intended to be.

Fish & Game Wildlife Action Plan – Referring to a presentation scheduled for 28 November, Mr. Day suggested Board members attend if they can, as it appeared it could fold into what the Board is already working on with regard to a conservation district overlay.

ADJOURNMENT:

MOTION: Mr. Morales **MOVED** the Planning Board adjourn. Mrs. Belcher seconded, and the motion carried unanimously at 9:10PM.

Respectfully submitted,

Barbara A. White
Recording Secretary

James R. Day, Jr.
Chairman

Minutes approved December 21, 2006