

EAST KINGSTON PLANNING BOARD

November 18, 1993

Attending: Richard Smith, Sr., Chairman, Cathy George, Joe Cacciatore, and Mel Keddy

Others Attending: Peter Dow, RPC Circuit Rider; and Larry Smith, Conservation Commission, David Boudreau, Deputy Building Inspector

The meeting was called to order at 7:37pm by Chairman Smith.

New Zoning Maps were distributed by Peter Dow.

Mr. Cacciatore motioned to accept the minutes of November meeting with corrections.

Mrs. George second.

The motion passed 4-0.

Correspondence was reviewed:

Granite State Gas Transmission-holiday greetings & offer of free emergency response training

NH Kidney Foundation of NH & NHMA letter endorsing plan to clean up junk vehicles. Letter from RPC 1994 Transportation & Air Quality Control - re: matching 80-20% funds to upgrade small Town facilities, i.e. sidewalks, shoulders, curbs, intersection improvements, landscaping, historic restoration.

Mr. Cacciatore asked if there were other grants for road improvements, other than the Block Grant. There was discussion about FEMA's help with culverts on Joslin, Stumpfield, South Road. It was noted there are some matching grants to address recreational, conservation; recreational to include motorized and non-motorized trails, hiking, boat ramps (Under ICETEA), Land & Water Conservation Funding, RC&D Funding is available (needs someone to make application for grants to the proper agency). Mr. Dow stated he is willing to recommend some sources; Mr. Cacciatore stated he is very interested in doing this. Mr. Dow agreed to supply a list of grants, most of which require matching funds.

Charles Marden was present to discuss the issue of the use of "native lumber" in construction. He stated he has brought some information he got from the Rockingham Extension Service. He noted the bill died in Committee where the State was attempting to legislate the mill to sell unstamped dimension lumber, but they would certify its grade. It was also noted that there is a new proposal before the Legislature which is basically the same as the previous one.

Mr. Marden stated he felt the Town was seeking a way to handle this on a local basis. He said when the mill certifies the rough lumber, they take the liability. The mill does not have to have a certified grader, but most mills in the area are able to certify.

Mr. Dow asked what backs up the certification.

Mr. Marden said, once given, the mill would probably be held liable should an issue be brought to court.

Mr. Dow asked if mills carry any liability insurance.

Mr. Marden said most mills carry a product liability policy which is not expensive.

Mr. Smith said some states certify the mills, but this is not proposed in New Hampshire.

Mr. Marden stated the BOCA requires a stamped piece for construction; and then asked if there is any provision for a timber framed building.

Mr. Boudreau stated he could not find anything. BOCA allows the Building Inspector to get certification of the strength through an engineer who would certify for load testing.

Mr. Marden feels the mills should have the product liability and they would ultimately be held responsible.

Mr. Dow asked if the Town addressed the liability in its Building Code. It was determined it is left to the Building Inspector; it is left to certify by the mill to the Building Inspector.

Mr. Boudreau noted that the novice builder probably doesn't know the problems.

Mr. Marden noted the liability always goes back to the person (mill) with the insurance.

Mr. Dow noted that Mr. Conti will accept native lumber if he feels it is okay for building construction without certification.

Mr. Smith said Dr. Marston had suggested eliminating the section that requires a stamp.

Mr. Dow asked if this deletion was proposed and if native lumber was used, how does the Building Inspector refuse the use of certain lumber that will not bear the test of loading.

Mr. Boudreau stated they need to come up with some kind of certification.

Mr. Marden asked if the Building Inspector would use his discretion.

Mr. Boudreau stated this is how it is being done now.

Mr. Dow suggested adding the paragraph from the State Legislation (proposed) to the Building Code.

Mr. Marden concurred that this would be a good direction to go and the liability would likely go to the mills supplying the lumber.

There was some discussion at this time about new BOCA coding to mandate the use of smoke detectors in every bedroom as well as the access to the bedrooms (halls). Builders are already asking if the 1993 BOCA can be enforced. The amendment addressing BOCA updating will take care of the problem of updates being automatically enforceable.

Mrs. George motioned to use Paragraph III of the State's wording:

"Any municipality which has adopted a building code which requires regular grade stamped lumber shall accept a certificate which certifies that the native timber meets the appropriate structural standards in lieu of an accepted and recognized lumber grading stamp. Any structure which is built with such approved native timber shall be considered equivalent to a structure built with stamped lumber."

Mr. Cacciatore second.

The motion passed 4-0.

Mr. Smith asked for the Board's opinion regarding the Bodwell Constructed Wetlands expansion and if he should be required to have a Site Plan Review.

Mr. Cacciatore noted that Mr. Bodwell is being monitored by the EPA.

Mr. Larry Smith stated, this is true, if and when the grant money comes.

Mr. Smith noted the change of use calls for a Site Plan Review.

After some discussion, the Board decided to hold off to see if the money is forthcoming.

Mr. Smith said he feels Mr. Bodwell should have a permit before he continues; he has been operating without one; otherwise, shut him down. The Town so voted to have a permit process and he, Mr. Smith would be willing to go along with the business if Mr. Bodwell gets a permit.

Mrs. George said Mr. Bodwell should have a permit before being allowed to continue with other plans. She asked if he should be held up because of the violation.

Mr. Larry Smith stated he has a State permit and Mr. Bodwell always felt that he was grandfathered.

Mr. Boudreau asked if the expansion requires a Site Plan Review even if he was grandfathered.

Mr. Larry Smith noted the lagoon capacity was not going to increase, but the constructed wetlands would be increasing. There would be no increase in the total quantity.

Mr. Keddy asked if there were any problems with the setbacks.

Mr. Smith noted that the plans submitted never show us the area where he spreads.

It is noted the State permit is for five years and the Town is annual. Mr. Smith suggested the Town change the length of permit validity, and see if he applies for the permit.

Mr. Keddy motioned that Mr. Daniel Bodwell be required to obtain an annual permit.

Mr. Cacciatore second.

This motion was withdrawn and no vote was taken.

Mr. Dow stated the Selectmen are the enforcing authority and suggested they offer to give a five year permit (which addresses the issue of length of permit validity), yet keep the revocation authority. The change from annual could be recommended to the Selectmen, but mandate the one year be invoked immediately.

Mr. Cacciatore asked if the Planning Board wants the Selectmen to set up an appointment and revisit the length of permit time with Mr. Bodwell. This would mean the Town permit would run concurrent with the State permit.

Mr. Keddy motioned the permitting process for five years would run concurrent with the date of the State permits.

Mr. Cacciatore second.

The motion passed 4-0.

There was brief discussion about the \$20.00 fee and the Board decided: no change.

Mr. Cacciatore agreed to talk with Mr. Donald and Mr. DiProfio about talking with Town Counsel about the situation with Mr. Bodwell.

Mr. Dow distributed a memo concerning the CIP.

Mr. Cacciatore motioned to hold a Public Hearing on Zoning Ordinance proposed changes and Building Code proposed changes on January 13, 1994. The regular meeting date for the Planning Board will be held the same night. Posting will notice both the date of January 13 and January 27 (for a second hearing should it be required).

Mrs. George second.

The meeting was adjourned at 9:40pm.

Respectfully submitted,

Nancy J. Marden, Administrative Assistant

Typed: Dec 17, 1993

Public Hearing - Subdivision Application - Clint Furnald The Public Hearing for Clint Furnald was opened at 8:07pm. Mr. Furnald explained that he is creating two lots, each which will be in excess of 5 acres thus he needs no State Subdivision approvals. He noted that the line goes from one stone wall to another and stated he does not want to have to set concrete bounds. The mylar shows that drill hole as set.

Mr. Dow explained that the subdivision regulations require concrete bounds. The subdivision proposed does create a new tax map parcel and it will be saleable. It is now in Current Use and the use will not be changing. Because it is contiguous to land of the same owner all will remain in Current Use. He noted that the Board could waiver the need for concrete bounds.

Mr. Conti stated he feels any drill holes should be accompanied by a visible marker.

Ms. Rossi stated she is agreeable to waiving the concrete bound requirement.

Ms. Rossi motioned to approve the subdivision without the concrete bounds.

Mr. Cacciatore second.

The motion carried 5-0.

The Public Hearing closed at 8:30pm.

Suggested Zoning Ordinance Changes for 1994:

Planning Board Rules of Procedure Mr. Dow passed out copies of the Rules of Procedure which were accepted by the Board in 1991. He noted that certain items, such as the day of meeting and wording referring to "Executive Session" be changed to "Non-Public Session".

Another change suggested was to allow the Chairman to sign plans after the approval has been given by the majority of the Board.

James Davis, Deputy Fire Chief arrived at this time, 8:34pm.

Mr. Dow will draft the language for the Board's consideration next month. It was noted that many towns do business this way and plans do not have to be signed at a Public Meeting.

Mr. Richard Smith suggested language to require that a list of changes accompany the mylar when the developer is seeking a "signature - in the field".

Another way suggested was to bring the mylar, once ready for signature, to the Town Offices with the list of changes which then could be checked out prior to signing.

The Board seemed to be in agreement with the suggestions.

Changes have to be posted, and Mr. Dow will work with Mrs. Marden to accomplish this procedure.

Mr. Smith posed the question about safeguards to insure that monuments are actually set once the plans are signed.

Mr. Dow noted that once the plans are signed, the surveyor is certifying that if so stated on the plan, the bounds are set. The Town can require that a monument be certified.