



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

20042005  
*James Roby Day, Jr., Chairman  
Richard A. Smith, Sr., Vice Chairman*

**MINUTES**  
(Regular Meeting and Public Hearing of November 18, 2004)

**AGENDA:**

7:00PM– **Call to Order and Board Business**

7:15PM – **Discussion** – Senior Planner Carriel shall address the question of impervious surfaces in East Kingston and the effect of present ordinances and regulations.

7:30PM – **Public Hearing**– Change recommendation for Zoning Ordinance Article X – Floodplain Development.

7:45PM– **Public Hearing** – for Article XIII – Growth Control. To review findings of fact in the annual review required to establish the currency of the ordinance. For Article XII –Elderly Housing to conduct an annual review of the housing balance resulting from such development.

8:15PM – **Continued Public Hearing** – for Brian Beattie/Wayne Ewald, 16 North Road subdivision, MBL 14-3-10 (PB#04-OD), in regard to an amendment to an approved subdivision plan (PB#03-09) for construction of a 35,000 gallon fire pond.

8:45PM – **Adjournment**

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

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

Members present – Mrs. CE Belcher, Chairman JR Day, Vice Chairman RA Smith, Sr., Dr. RA Marston, DVM, Mr. R Morales, ex-officio

Alternate members present – Mr. EV Madej, Mr. J. Burton`

Advisers present – Ms. Maura S. Carriel, Rockingham Planning Commission (RPC) Senior Planner; Mr. LK Smith, Chairman, East Kingston Conservation Chairman; Fire Captain Andrew Conti, East Kingston Fire Department; Mr. Raymond Donald, Building Inspector

**Designated Voting member** – Mr. Day noted that this month Mr. Burton is the designated voting member.

**BOARD BUSINESS:**

**Minutes–**

**MOTION:** Mr. RA Smith **MOVED** that the Board accept the minutes of the October 21, 2004 meeting with corrections. Mr. Morales seconded and the motion carried unanimously.

Mr. Day informed the Board that Maura Carriel will be leaving the Rockingham Planning Commission to pursue a career in nursing. The Board wished her well.

Mr. Day noted that the Public Hearing for David Baker and the Discussion Only for Tucker Realty Corp. have been cancelled.

**Targeted Block Grant** – Mr. Day stated that there is \$800 committed to this, and the State will match that giving a total of \$1,600 to do Master Plan goals, objectives and visioning. This money has to be spent.

Mr. Day stated that the Planning Board budget submitted to the Selectmen was about \$3,000 less than it was last year. He stated that the Board had asked for \$2,000 last year to do the CIP, which the Board did itself. He added that there were other savings as well so the Board asked for \$28,000.

#### Correspondence –

Mr. RA Smith received a project update from the Department of Environmental Services regarding the availability of groundwater resources in southeastern New Hampshire. He stated that he will make it available in the reading file.

Mr. Day stated that he has handed out a new Page 1 and 2 of the Findings of Fact, which includes data on the middle and high school populations. He noted another hand-out is a page from the Master Plan, Elderly Housing ordinance. This new page should replace the present page.

#### DISCUSSION—SENIOR PLANNER CARRIEL TO ADDRESS THE QUESTION OF IMPERVIOUS SURFACES IN EAST KINGSTON AND THE EFFECT OF PRESENT ORDINANCES AND REGULATIONS

Mr. Day asked Ms. Carriel to give a quick overview.

Ms. Carriel stated that this project is being done with funding from the New Hampshire Estuaries Program and how it has come to be that East Kingston is under more scrutiny by outside planners is that the New Hampshire Estuaries Program had contracted with the Planning Commission to do a better site design review for a single town in the region. She added that the Town of Epping had expressed interest, the project got started and Epping eventually dropped out. It was then decided that this project would tackle three towns to do a more streamlined version of the impervious surface/better site design project. She stated that basically the New Hampshire Estuaries Program had some money they wanted to work with outreach and technical assistance to communities in the coastal watershed to look at ways to decrease the amount of paved surfaces and in doing so help preserve natural or open space and protect water quality. She added that East Kingston was selected because it is in the coastal watershed and it seemed like good timing with the NROC work that's going on and the fact that it is a community that is starting to feel a lot more development.

Ms. Carriel stated that what they attempted to do with the project was to streamline it with the NROC work that is being done because a lot of the goals and objectives are the same. She stated that there were a few things that they were required to do. The first was to use the Center for Watershed, which is a non-profit natural resource think tank out of Maryland, which has put together a process for a town to look at the regulations, see how they encourage or discourage impervious surfaces and protect water resources and give the town some model approaches that they think they could do specifically to try to reduce paved surfaces in the community. She explained what they did for each of the three towns using the models to compare the zoning ordinance, subdivision and site plan regulations against things that the Center says the town should do. From that review, they pick one or two of the highest priority things for the Planning Board to work on. She noted the table hand-out is a summary of all of their 22 principles and recommendations with suggestions to meet that principle. It also identifies the section of the land use regulation where these can be found.

Ms. Carriel stated that, in general, East Kingston came out pretty well overall without even making a concerted effort to address the 22 principles because the town allows a lot of flexibility in terms of parking requirements for non-residential development. The town does not require curbs and gutters, it does allow open drainage systems, which allows water to infiltrate back on the site and recharge the ground water. She stated that the town does not have a lot of regulations that encourage a lot of pavement, but there are some areas that could be improved. She went on to list her three recommendations, which she stated she thought Mr. LK Smith agreed with her on.

The first was to look at street width requirement. The town requires 24' of pavement, which is the standard requirement. She stated that in the case of cul-de-sacs, where the road is not going to be connected, they might want to consider going with a little narrower pavement. The second recommendation would be to look at the question of whether a cul-de-sac needs to be paved. The third recommendation would be storm water management and recommending some model language that could be put in the subdivision and site plan regulations that go under the drainage requirement with some specific recommended designs that encourage water to be kept on-site and allow it

to percolate down into the soil instead of shoveling it off. She stated that she thought this was something that Mr. LK Smith has been looking at for some time. Ms. Carriel stated that if there are any questions or comments, she can be reached at her office. She stated that her goal is to have a draft report by the end of the month to give to the Board for its use by the end of December. She added that this all feeds into the whole NROC process and a lot of things that that program is advocating. She stated that she is trying to streamline it.

Mr. Day stated that the town's right-of-way used to be 60' as it is in his neighborhood, some years ago it was reduced to 50'. He stated that he thought 50' may still be too much.

Mr. Day noted Item #11: Single Family cluster requires a 20-acre parcel. He stated that elderly housing only requires 10 acres, and this might be another reason for the amount of elderly housing rather than cluster housing in East Kingston. Mrs. Belcher stated that another reason East Kingston is not seeing so much single-houses is because the elderly housing is exempt from the growth control ordinance where a single-family cluster would not be.

Mr. Day stated that there is a lot of good information in the report that can be used for zoning ordinance changes

PUBLIC HEARING – CHANGE RECOMMENDATION FOR ZONING ORDINANCE ARTICLE X – FLOODPLAIN DEVELOPMENT

Mr. Day opened the public hearing.

Ms. Carriel stated that FEMA has model language that they give to towns to adopt all for the purpose of making sure that town residents are able to purchase flood insurance. She stated that they are in the process of updating their flood maps and they have committed to a May 17, 2005 release date of these maps. Therefore, any town that is part of the flood insurance program has to reference those revised maps in order to be in compliance with their model language for residents to be eligible to purchase flood insurance. It contains some minor changes to reference the flood insurance study and it gives the new date of the new maps. Mr. Ray Donald stated that unfortunately some of those maps are not all accurate. Mr. LK Smith stated that FEMA is aware of the problem.

Mr. Day opened the floor to public comment, to which there were none and Mr. Day closed the floor to public comment.

**MOTION:** Mr. Ron Morales **MOVED** that the Board place this Warrant Article change recommendation on the ballot for Town Meeting. Mrs. Belcher seconded and the motion carried unanimously.

Mr. Day closed the public hearing.

**Board Business**

Mr. Day stated that he would like to have another work session before the next meeting to deal with the elderly housing ordinance, residential cluster ordinance, as well as preliminary subdivision review. Mr. Day stated that a preliminary subdivision review would require an applicant to come before the Board to talk about it first and that is a recent statutory change authorizing the Board to do that. He added that conservation zoning district overlay is also in need of discussing as is inclusion of accessory dwelling units. It was decided to meet on Thursday, December 2 at 7:00PM.

Mr. Ray Donald stated that in the last few months it has come to his attention on two occasions by the health officer that the water quality of new houses has been a concern. He stated that there is nothing in the ordinances that address the quality of water so there is nothing the building inspector can do legally to prevent a home occupation permit to the dwelling even though the water may not meet state standards. He stated that the Board might want to consider some type of ordinance to cover water safety standards and water testing at least in larger developments.

Mrs. Belcher agreed that there should be some provision that the builder offer some sort of guaranty that the water is safe and they should be held accountable to that. Mr. Day stated that in discussions with the health officer some time ago, there was concern that there was no standard against which water quality could be measured. Mr. Donald

stated that there are State standards, and it should be required of the builder to provide documentation from the State as proof of meeting those standards.

Dr. Marston stated that he felt it should be the builder and the buyer that should address this situation. Mr. Donald stated that his concern is for the people from the city moving into the country that have no idea of what the water quality of a well should be. Mr. Day stated that he thought the biggest objection to this by the Board was the liability to the town to provide safe water.

Mr. Burton stated that if the Town adopts the State's standards, then it avoids any liability. The town would not be imposing any standards and all it would require is showing documentation that the water meets State's standards.

PUBLIC HEARING – FOR ARTICLE XIII – GROWTH CONTROL. TO REVIEW FINDINGS OF FACT IN THE ANNUAL REVIEW REQUIRED TO ESTABLISH THE CURRENCY OF THE ORDINANCE. FOR ARTICLE XII – ELDERLY HOUSING TO CONDUCT AN ANNUAL REVIEW OF THE HOUSING BALANCE RESULTING FROM SUCH DEVELOPMENT

Mr. Day opened the public hearing.

Mr. Day referred to the Findings of Fact and stated that the Board's task is to decide whether or not the conditions still warrant keeping the ordinance an active ordinance. He added that the State would prefer that growth control be a temporary measure. He stated that they must decide if this is an appropriate time to let the ordinance lapse.

Ms. Day stated that the Planning Board looked at the school populations and property values and taxation. He stated that the decision is the Board's as to whether or not the facts present a picture, which warrants keeping the growth control ordinance in place for another year. Ms. Carriel stated that there are no updates on the first four items.

Mr. Day stated that only the 1990 and 2000 numbers are available from the censuses. It all indicates that East Kingston is growing faster than some of the surrounding towns. He indicated that the population from 1990 to 2003 increased by 16.2% and East Kingston and the abutting towns experienced a rate of 20% in growth. He stated that the share of East Kingston's total population in the six-town region has increased by over 1% in the course of three years. Mr. Day stated that East Kingston is growing faster than the other five in this study. Mr. Day stated that the average annual increase in population 1996-2000 was 1.3% and East Kingston and abutting towns experienced 1.7% growth.

Mr. Day stated that there was a new addition built to the elementary school and there is now room for 11 classrooms, grades K-5 and according to the State's standards the maximum school population is considered to be 250 students. He added that the School Board considers a school population of 220-225 to be a more realistic number. Mr. Day stated that the local School Board has a plan to build a second story of classrooms on top of the addition. He stated that they originally planned to start this building in 2007, but they have reconsidered because of the stable population of students, they will push it back to 2009 and may be even later. Mr. Day noted the middle and high school populations since 1998 have been pretty steady, as is the entire school population. He added that the SAU 16 is going ahead with the new high school and is still spending a lot of money on middle school improvements and additions.

Mr. Day noted the town wide property revaluations in 1992 and 2003. He stated that in 1992 a \$100,000 house is \$212,000 today. He added that the tax bill for that \$100,000 house went from \$2,500 to almost \$4,000 for an overall increase of 60%. He stated that spending today is 29% greater than it was in 1992.

The next finding of fact has to do with road improvements and capital expenditures and Mr. Day stated that this is a curve that swings up from 1994 at about \$45,000 to this year's budget proposal for next year's budget is \$134,000. He stated that the 2005 Capital Improvements Program was updated last month. Mr. Day stated that if the Town had done everything it proposed to do in the CIP in 2002 it would have been 18% of the tax rate and what is being proposed in the 2005 edition is 23%.

Mr. Day stated that what the Board is being asked to do is consider if the Town has to hold on to the growth control ordinance. Mr. Day stated that the Town cannot stop growth, it can try to channel it. He added that the growth control ordinance's intention was to control growth in such a way that the Town can keep up with the demands on

municipal services. He added that another benefit is that directing residential development can allow growth to develop in areas that do not have the same impact on the services and schools.

Mrs. Belcher stated that she thought the growth control ordinance is doing exactly what it was put in place to do. She stated that since the growth control ordinance is working and not putting any more impact on the school, does the Town still have grounds to continue the ordinance. Mr. Day stated that growth control is intended to be temporary, it is intended to be a mechanism whereby a municipality buys time to build the infrastructure to support a growing population and at the next town meeting, they will be asking for a new library and police station. He added that these are all manifestations of growth.

Mrs. Belcher asked about the number of building permits issued. Mr. Ray Donald stated that he believed there was one building permit left. Ms. Carriel stated that there were nine used last year and 14 is allowed. Mrs. Belcher stated that since the Town is not using up all the permitted building permits under the growth control ordinance, how can the Board then say there is a problem with growth when it is not reaching the limit set. She added that if the growth control ordinance was lifted, instead of the elderly housing there might be the development of single-family cluster developments, which could impact the schools.

Mr. Burton stated that it is illegal to stop growth. He asked if it was possible to keep the growth control ordinance and get rid of the elderly housing ordinance. Ms. Carriel stated that you can do that, but the growth control ordinance could be challenged at anytime by anybody. Mr. Day stated that elderly housing is an innovative land use.

Ms. Carriel pointed out that the other thing the growth control ordinance gives the Board authority to do is to look at the number of building permits that are being made available to make a determination as to whether that is still a good number or should it be higher or lower.

Mrs. Belcher stated that one reason the Town has not been challenged in the growth control ordinance is that there is another type of construction offered, i.e., elderly housing. Ms. Carriel stated that in one of the cases where a town's growth control ordinance was challenged, the Court looked at the percentage that they used to set a building a cap.

Mr. Day stated that the elderly housing ordinance has been the Town's relief valve and has afforded the Board an opportunity to look at other growth issues. He noted page 42 of the ordinance, paragraph 5 where it says the parameter is to apply 2% to the total number of residential houses in town and that comes out to the number of permits. He added that that 2% could be adjusted to another number. Mr. Donald stated they are trying to hold spending increases to 3% for the upcoming budget. Mrs. Belcher stated that she thought there was a chance there is going to be a warrant article presented to the voters this March that should be considered to remove the elderly housing ordinance completely.

Mr. Donald stated that there were 14 permits for regular housing and he thought there would be one left at the end of the year.

Mr. Day opened the floor to public comment.

Mr. Herbert Woodworth, South Road, asked if everyone's taxes bill go up the same percentage. Mr. Day stated that he thought the average was 11% and it's tied to what the appraiser's did with the revaluation of each particular property. Mr. Woodworth stated that his tax bill has gone up almost 50% in the last two years. Mr. Donald stated that with regard to antique homes, the company who performed the revaluations, Avitar, has developed another method to revalue these for a second time. Mr. Woodworth asked who the authority is that tells the Town that it cannot limit growth, to which Mr. Day stated that it is the State. Mr. Burton stated that the idea of zoning is very new and the US Constitution says that you can't take someone's property without due compensation. He added that until about the 50's and 60's, the Courts said that any effort at zoning was taking away someone's property rights and the town had to compensate these people.

Bob Moore, Andrews Lane, stated that he is concerned about the Town's rapid growth. Mr. Day stated when they first put in the growth control ordinance, the town had just gone through a tremendous growth spurt. He added that the growth control ordinance approach to zoning and development was untested in the courts and he feels the RPC

and the board at the time did a very good job of crafting it. Town Counsel agreed with it. He added that East Kingston has managed to find a relief valve quite inadvertently in the elderly housing ordinance. He added that the elderly housing ordinance was an innovative land use intended to try to control municipal spending.

Mr. Donald stated that many years ago the Supreme Court of New Hampshire made a decision that the only way you can have a growth control ordinance was to make certain that the growth did not happen in the town faster than the infrastructure could handle it. He added that the court also said that the only way you can have growth control was to be consistent with the neighboring communities.

Mr. Moore asked if it is the Planning Board's responsibility to watch over the town's budget. Mr. Day stated that the Planning Board is in the growth business. Mr. Burton suggested that Mr. Moore read the statute. He added that the Board only has the power given to it by the State in this statute. He added that it is available on line and the statute is 674:23. He stated that it has to be reviewed annually and the statute says that it is only a temporary measure only to be used under extraordinary circumstances.

Mr. Donald answered Mr. Moore's question regarding whether the Planning Board is involved in the budgetary concerns of the town. He stated that the Board is responsible for making sure that the town does not grow faster than the infrastructure. Mr. Day stated that the Board recommends to the Board of Selectmen with the Capital Improvements Program spending which the Town may need to do. He added that the Board recommends to the voters what it feels might be best to allow the town to grow, which comes in the form of ordinance change recommendations and entire ordinances.

Gail Anderson, East Road. Ms. Anderson asked in regard to the revaluation, if the elderly housing units will keep their value like a home. Mrs. Belcher stated that the units are beautiful containing 1,500 square feet and are not mobile homes.

Mr. Day closed the floor to public comment.

Mr. Burton stated that he felt that not enough is known about the future, so it should remain the same, ie., keep the growth control and the 2% number.

**MOTION:** Mr. Morales **MOVED** that the Board retain Article XIII – Growth Control as written based on the Findings of Fact (attached). Dr. Marston seconded and the motion carried unanimously.

Mr. Day noted Zoning Ordinance Article XII – Elderly Housing, which requires an annual review with regard to examining the provision in the ordinance that says that “the total number of elderly housing units contained in any elderly housing development in the Town of East Kingston shall not exceed four percent of the total number of standard residential dwelling units then existing in the Town of East Kingston“.

Ms. Carriel stated that essentially what she had attempted to do was to look at the number of certificates of occupancy that had been issued for elderly housing to try to put a number on the elderly housing units that were in existence in the town relative to the total number of housing units. She stated that she was also trying to come up with an estimate of the change in the demographic make-up of the population, what the age distribution is. She stated that under the existing ordinance, no single elderly housing development can have more than 29 units. She added that what the ordinance is directing the Board to do is determine if 29 is an adequate number. She stated that utilizing the town's data for 2003, if all of the approved units were built, elderly housing would represent 21% of the standard dwelling units in town or 17.6% of all the housing units in town. Ms. Carriel explained the tables in her report. She stated that as of April 2004, close to 30% of East Kingston is 55+. She stated that the biggest change is a decrease in the percentage of the residents that are in the 20-44 age bracket. She stated that the other age ranges stayed steady.

Mr. Morales stated that 77% of the taxes go to the school and despite the fact that the school population is flat, there is more spending every year. Mr. Day read from Ms. Carriel's memo, “In 2000, the Town had a smaller percentage of elderly householders than did the region. However, construction of the remaining approved units will bring the Town close to the region's age distribution“.

Mr. Day opened the floor to public comment.

Mr. Day stated that the Board has to look at the balance between the standard dwelling units and the elderly housing. He read from the Article that elderly housing development shall not exceed four percent of the total number of standard residential dwelling units.

Mr. Morales suggested going through Ms. Carriel's suggestions on page 3 of her memo, which he stated might make it easier to make a decision. It was clarified that the four percentage referred to the non-elderly housing.

1. What was the reason for adopting an elderly housing district? Does the reason still exist? Mr. Day stated that it was adopted because it was an innovative land use and it was done to try to direct growth in a way that would not impact the school. He stated that the school is still outspending everyone else.
2. Are the scale and size of the approved projects in keeping with the Town's character and goals? Mrs. Belcher stated that reducing the size of the scope of the entire development would be a good thing. She stated that she would be happy with capping the size. In addition, she said she would be inclined to do something about the land size because she felt it needs some tweaking.
3. Is the potential demographic shift in keeping with the Town's existing character and preferred future? Mr. Day stated that it is in keeping with the surrounding communities.
4. What are the expected positive and negative impacts of elderly housing developments? Some impacts may be beginning to be visible, but the full impacts will not be clear until after the units are occupied for some number of years. Mr. Day stated that many of the elderly housing units are not being taxed at the full taxation rate because they weren't occupied before April 1, 2004, therefore, these will come onto the tax rolls next year. Mr. Day noted that there will be increased demand on municipal services. Mr. Donald noted that it doesn't matter what kind of housing it is, it is going to require the same services.
5. What are possible effects of limiting the number of elderly housing units that can be constructed in the Town? Mr. Day asked if this would prompt a developer to look at other ways to develop in town. He noted the cluster ordinance is restricted by growth control so nothing has come forward and the relief valve remains elderly housing. He stated that if the number of elderly housing units is restricted, there might be a device whereby property is chopped into little pieces or there might be pressure to do other development forms which would come back onto the growth control. Ms. Carriel stated that the elderly housing ordinance is not one that is required.

Mr. Day stated that this would continue at a work session.

Mr. Day closed the public hearing.

Mr. Day stated that the Board will create a change recommendation.

CONTINUED PUBLIC HEARING—MR. BRIAN BEATTIE/WAYNE EWALD, 16 NORTH ROAD SUBDIVISION, MBL 14-3-10 (EKP#04-OD), IN REGARD TO AN AMENDMENT TO AN APPROVED SUBDIVISION PLAN (P#03-09) FOR CONSTRUCTION OF A 35,000 GALLON FIRE POND

Mr. Day opened the public hearing.

Mr. Steven Bradstreet from Aquarion Engineering Services appeared for the applicant, Mr. Brian Beattie. Mr. Bradstreet stated that they have a revised easement plan, the one that was submitted did not have the drainage easement. He passed out copies of the new plan. He also referred to his written response to Ms. Carriel's memo.

Mr. Bradstreet stated that they submitted the driveway permit to NHDOT, and their one comment was that the fire hydrant and the bollards have to be out of the right-of-way because they are a deadly fixed object. He stated that has been done and he got a verbal approval and the permit is in the mail.

Mr. Bradstreet stated that they have addressed the Fire Chief's comments, the Town Engineer's comments and comments from the last hearing. He stated that they corrected the lot number in the title block, putting names of owners on the lots, addressing some of the grading issues that the town engineer came up with in regard to

maintaining drainage along the road. He showed where the water would drain down to the natural drainage ditch on the side of the road.

Mr. Bradstreet stated that the liner is an impervious material liner, not a fabric liner. He clarified where the high water line was. He stated that they provided free board as was recommended and they also provided a rip rap emergency spillway so if the water level gets too high in the pond it is able to spill out through the culvert under Mr. Beattie's driveway and continue down the natural flow path. He added that they have provided specifications for the liner material on the plans. He stated that the fire chief had requested a way to gauge the level of water in the pond, so they added a graded pole. This pole would be in one foot gradations and shown on the plan.

Mr. Bradstreet stated that the one item that the town engineer requested that was not put on the plan because he disagreed with it, is a fence around the pond. He stated that he has found that detention type ponds with locked fences are sometimes difficult to access. He added these can be an attraction to kids. He added that a fence would lower the value of Mr. Ewald's property. He noted his response in writing to Ms. Carriel's memo.

Mr. Bradstreet stated that, in speaking with the surveyor, the original recorded subdivision plat containing a cistern is still a valid document that can be amended. Mr. Day stated that the plan must have a Licensed Land Surveyor stamp or it cannot be recorded. Mr. Bradstreet stated that he would get that done. Mr. Bradstreet said that the new easement plan has been submitted to the Board.

Ms. Carriel went through her list of outstanding items that needed to be addressed:

1. The plan will be stamped by a Licensed Land Surveyor.
2. The easement plan does include the drainage easement, which will be recorded.
3. Legal counsel will review and approve easement language.
4. Approvals will be received from Town Engineer and Fire Department
5. NHDOT permit is on the way.

Mrs. Belcher noted that Mr. Bradstreet had stated that the overflow water would go into the natural flow of runoff. Mr. Bradstreet showed how the water would be flowing in order to keep the pond full. He showed where the level berm is around the outside that is at elevation 140.5; the depression in the top of the berm down to elevation 140, which is rip rap protected. He added that that is where the water level will stay and if it gets any higher than that, it goes over the rip rap spillway down to the inlet of the driveway culvert through the culvert under Mr. Beattie's driveway and continues the ditch along Route 108. He added that that is the natural way the water would drain if the pond was not there. Mr. Morales stated that there is filtering taking place as the water goes through the land mass versus a directed amount of water. Mr. Bradstreet stated that there is a roadside ditch in place to collect the water coming off the property. Discussion ensued regarding the flow of the water before and after the installation of the pond.

Mrs. Belcher stated that she had to disagree with Mr. Bradstreet's suggestion that a fence was not necessary. Mr. LK Smith stated that a fence is a requirement with the fence being behind the hydrant. Mr. Day stated that there are ponds around town without fences that either the Fire Department feels are shallow enough or they have been there for many years. Mr. Day clarified that Maplevale and Cricket Hill's fire ponds have all been required to have a fence.

Mr. Beattie asked when this became a requirement. Mr. Conti stated that it is not in the ordinance, but it has been in general practice. He added that it was a safety question in Maplevale and that is why the engineers and contractors offered to put in a fence. A unanimous poll of the Board in favor of a fence was taken. Mr. Bradstreet asked if the Board would consider it without a fence if one side had a slope that would make it easier to climb out of, to which Mr. Day stated that they would consider such a pond after acquainting himself with the DES requirement. Mr. LK Smith asked how would someone know which side has the shallow slope. Mrs. Belcher stated that she felt they owed the residents the safety of a fence.

Mr. Day opened the floor to public comment, of which there was none and he closed the floor.



Mr. Day stated that Town Council has yet to see easement language for the town and for the drainage easement. He added that the Fire Department needs to review the final plan and approve it.

With regard to maintaining the water level on the pond, Mr. Conti stated that the Fire Department would be okay with it if it is written in the easement language as to who would be responsible for keeping it full and as long as Town Council is satisfied. He stated that the easement language has to be enforceable. He did add that the Fire Department is starting to require that the connection be perpendicular, and these are available at cost from the department.

Mr. Day went through the list of items still outstanding:

1. Town Council needs to review the easement language regarding the town for access to the pond.
2. Town Council needs to review language for a drainage easement.
3. The Fire Department will have final review of the system after the Town Engineer rereviews it.
4. New Hampshire DOT driveway permit.
5. Fence.
6. Surveyor's stamp

Mr. Day stated that the Board took jurisdiction on October 21, 2004, so the Planning Board can continue to the next hearing.

**MOTION:** Mr. RA Smith **MOVED** that the Board continue the public hearing to December 16 at 7:30PM. Dr. Marston seconded and the motion carried unanimously.

Mr. Day closed the hearing.

Mr. Day stated the Board would meet for a work session on December 2 at 7:00PM.

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

attested,

Helen M. Lonek  
Recording Secretary

Article XIII— Growth Control  
Findings of Fact amended from November 6, 2003 attached

*approved 12/6/04*