



PLANNING BOARD
TOWN OF EAST KINGSTON
New Hampshire

2013-2014
Joe Cacciatore, *Chairman*
Dr. Robert Marston, *Vice Chairman*

MINUTES
Regular Meeting 21 November 2013
7:00 pm

AGENDA:

- ◆ **Call to Order**
- ◆ **Continued Public Hearing** for Subdivision Review for proposed 3-lot subdivision at Woldridge Lane, MBL 03-02-03 for Maplevale Builders, LLC.
- ◆ **Public Hearing** for Home Occupation application for Lewis Bellows, 132 South Road, MBL 13-01-01 for office operations for his mobile appliance repair.
- ◆ **Public Hearing** for Home Occupation application for Charles Fowler, 9 Pine Woods Road, MBL 12-03-12 as a Personal/Fitness Trainer.
- ◆ **Public Hearing** for minor Site Plan Review for Ezhra Martin to conduct nutrition counseling/hydrotherapy, at 14 Powwow River Road, MBL 10-03-09.
- ◆ **Public Hearing** for a minor Site Plan Review for Merrythought (Mark & Carrie Allin), 10 North Road, East Kingston (MBL 14-03-06) for the expansion of a commercial use .
- ◆ **Discussion** with George Haskins regarding road completion and trash pick-up for Country Hills.
- ◆ **Discussion** regarding the 100' Town setback versus the State 75' setback from wetlands and surface water.

CALL TO ORDER: This meeting of the East Kingston Planning Board was called to order at 7:00 pm.

ROLL CALL: Mrs. White called the roll.

Members Present: Chairman Mr. J. Cacciatore, Vice Chairman Dr. R. Marston, Mr. J. Bath, and Ex-Officio Mr. R. Morales. Mr. C. Delling was excused.

Advisors present: Rockingham Planning Commission (RPC) Senior Planner Ms. J. LaBranche, East Kingston Building Inspector Mr. J. Moreau and East Kingston Assistant Building Inspector Mr. T. Welch.

Others Present: Applicants Lewis Bellows; Charles Fowler; Ezhra Martin; Mark and Carrie Allin and their representative Mr. Dennis Quintal P.E.; Mr. George Haskins, President of the Board of Director's for Country Hills

Board Business

Minutes

As everyone has not had a chance to review them, approval of the October minutes will be held over until next month.

Continued Public Hearing for Subdivision Review for proposed 3-lot subdivision at Woldridge Lane, MBL 03-02-03 for Maplevale Builders, LLC.

Ms. LaBranche reported that the attorney representing Maplevale Builders, LLC had sent a letter requesting a 30-day extension from the date of the court decision as they may file a motion for reconsideration. The date of the decision is November 13, which would bring the continuance to December 13. The next Planning Board meeting is not until December 19; the 30-day extension will expire before that date if granted as requested.

Ms. LaBranche had sent notification to Mr. Merrill stating the disparity in the dates, but had not heard back from him on the matter as of this meeting. The Board had discussion regarding granting the extension for the 30 days as requested or extending it to the next Planning Board meeting date. The consensus of the Board was to grant the request as received until December 13.

Mr. Cacciatore asked for a motion to continue this hearing.

MOTION: Mr. Bath **MOVED** to grant the request for 30-day extension for Subdivision Review for proposed 3-lot subdivision at Woldridge Lane, MBL 03-02-03 for Maplevale Builders, LLC for a period of 30 days from the date of the Court decision to expire on December 13. Mr. Morales seconded; the motion was unanimous.

Public Hearing for Home Occupation application for Lewis Bellows, 132 South Road, MBL 13-01-01 for office operations for his mobile appliance repair.

Mr. Cacciatore opened this public hearing and invited Mr. Bellows to explain his application.

Mr. Bellows stated he was requesting a home occupation for the office operations for his repair business. At the present time, he conducts mobile appliance repair at client's locations, with none of the work being done at his residence. Deliveries would be minimal by USPS, FedEx or UPS. There would be no traffic as all work was done off-site. Because of that fact, he did not believe he would need to comply with the extra parking condition. He was requesting hours of operation of 9:00 am - 5:00 pm and did not want a sign. There would be only one employee; himself.

Mr. Cacciatore asked if the Board had any questions. Mr. Morales asked if he had a commercial vehicle; *Mr. Bellows stated he did not, he used his personal vehicle.* Mr. Morales asked how large an area he was intending on using; *Mr. Bellows noted he was not sure of the exact measurement, but it was well under the 25% allowed by the ordinance.* Mr. Morales asked if there would be any waste, as home occupations are required to take care of waste disposal at their own expense and not utilize Town trash removal for home occupation purposes. *Mr. Bellows noted there would be no waste.*

Mr. Cacciatore suggested that Mr. Bellows might want to change his hours to cover 7 days a week so he would not need to come back to the Board for a change to the conditions. This way he would be allowed to work any of the times within what was approved. *Mr. Bellows asked to extend his hours to 7 days a week.*

Mr. Cacciatore opened the floor to abutters. Abutter Mr. Ed. Crosby, 137 South Road identified himself and stated that Mr. Bellows had answered all the questions he was going to ask about his home occupation and he was satisfied. Mr. Cacciatore closed the floor to abutters.

Conditions of this home occupation are as follows:

- Home occupation is for the office operations only for the mobile appliance repair business.
- All repair work to be done off-site.
- Minimal USPS, FedEx or UPS deliveries.
- Hours of operation to be 9:00 am - 5:00 pm, 7 days a week.
- One employee is approved for this home occupation.
- As an invisible home occupation, no sign is allowed.
- Any change to the approved conditions would require the applicant to come back before the Planning Board.

Mr. Cacciatore asked if there was any further discussion from the Board. There being none, he asked for a motion.

MOTION: Mr. Morales **MOVED** to recommend the Home Occupation for office operations only for Mr. Lewis Bellows dba Lew's Appliance and Refrigeration Repair to the Board of Selectmen at 132 South Road with the above-mentioned conditions; Dr. Marston seconded; the vote was unanimous.

Mrs. White noted that the Planning Board would send a letter of recommendation to the Selectmen, who would have final approval/denial. If he was approved, the Selectmen's Office would contact him and let him know. Since he will not have a sign, it appears he qualifies as an invisible home occupation and the yearly fee will be \$25. The application fee Mr. Bellows paid includes the first year's home occupation fee, so he would not need to pay any permit fees until the second year. Each year, the Selectmen's Office would contact him and let him know when the fee was due. Mrs. White will send a copy of the recommendation letter to Mr. Bellows.

Mr. Bellows thanked the Board for their time. Mr. Cacciatore closed this public hearing.

Public Hearing for Home Occupation application for Charles Fowler, 9 Pine Woods Road, MBL 12-03-12 as a Personal/Fitness Trainer.

Mr. Cacciatore opened this public hearing and invited Mr. Fowler to explain his application.

Mr. Fowler explained he would like to conduct personal/fitness training to clients from his home. He would conduct 1:1 or 1:2 training; there would not be more than 2 cars at his home at any one time and he has shown he has adequate space to accommodate parking of two cars.

There are no deliveries anticipated and he would use the existing fitness equipment he has inside his home. He has no commercial vehicle, only his personal vehicle. He does not wish to have a sign. There would be only one employee; himself. He is requesting hours from 7:00 am to 8:00 pm Monday through Saturday.

Mr. Morales noted that as in the previous application, home occupations are required to take care of waste disposal at their own expense and not utilize Town trash removal for home occupation purposes. *Mr. Fowler replied the home occupation would produce no waste.*

Mr. Cacciatore asked if the Board had any questions. Mr. Morales asked how he would conduct his business; *Mr. Fowler answered he would have scheduled appointments with his clients with no more than 2 persons at a time.* Ms. LaBranche asked where the fitness equipment is located; *Mr. Fowler replied it was in his basement.* Ms. LaBranche inquired since there were clients coming into his house, if any type of inspection be required by the Fire Department? The Board did not remember any such requirements for Fire Department inspection for either of the previous similar home occupations.

Mr. Cacciatore opened the floor to abutters. Abutter Mr. Robert Nigrello, 2 Pine Woods Road identified himself and stated that he had no objection to the home occupation Mr. Fowler was applying for. Mr. Cacciatore closed the floor to abutters.

Conditions of this home occupation are as follows:

- Home occupation is for personal/fitness trainer.
- Approved for up to 2 clients per hour.
- Hours of operation to be 7:00 am - 8:00 pm, Monday through Saturday.
- One employee is approved for this home occupation.
- There will be no deliveries.
- As an invisible home occupation, no sign was allowed.
- Any change to the approved conditions would require the applicant to come back before the Planning Board.

Mr. Cacciatore asked if there was any further discussion from the Board. There being none, he asked for a motion.

MOTION: Mr. Morales **MOVED** to recommend the Home Occupation for Mr. Charles Fowler dba LiveFit LLC at 9 Pine Woods Road to the Board of Selectmen with the above-mentioned conditions. Mr. Bath seconded; the vote was unanimous.

Mrs. White noted that the Planning Board would send a letter of recommendation to the Selectmen, who would have final approval/denial. If he was approved, the Selectmen's Office would contact him and let him know. It appears he qualifies as an invisible home occupation and the yearly fee will be \$25. The application fee Mr. Fowler paid includes the first year's home occupation fee, so he would not need to pay any permit fees until the second year. Each year, the Selectmen's Office would contact him and let him know when the fee was due. Mrs. White will send a copy of the recommendation letter to Mr. Fowler.

Mr. Fowler thanked the Board for their time. Mr. Cacciatore closed this public hearing.

Public Hearing for Site Plan Review for Ezhra Martin to conduct hydrotherapy at 14 Powwow River Road, MBL 10-03-09.

Mr. Cacciatore opened this public hearing and invited Ms. Martin to explain her application.

Ms. Martin distributed some brochures regarding her business, and explained she would like to conduct her Nutritional Counseling business at the 14 Powwow River Road location. She would also offer detoxification footbaths and colon hydrotherapy on an as-needed, as-requested basis.

Ms. Martin stated that although she lives in East Kingston, she has run her business from Newburyport for 30 years. She recently had occasion to relocate the business to East Kingston as Mr. Jamieson's business condos offered the required space.

She has asked for business hours of 9:00 am to 6:00 pm, but had not indicated how many days she wished to operate. Mr. Cacciatore suggested she ask for Monday through Saturday so she would not need to come back before the Board to change her hours. Once approved, she could operate any number of hours between the approved times. Ms. Martin indicated she would like to operate from Monday through Saturday.

Mr. Cacciatore asked if the Board had any questions. Mr. Morales asked if she needed a special license to conduct her business; *Ms. Martin noted she was Board Certified by both the National and International Boards of Colon Hydrotherapy and maintaining her licensing was an ongoing endeavor, requiring a certain number of hours of training per year to keep current.*

Ms. LaBranche asked what water she would use; *Ms. Martin indicated the processes uses sterilized, filtered water.* Ms. LaBranche asked where the used water would be discharged; *Ms. Martin noted it would go into the existing waste system at the 14 Powwow River location.* Ms. LaBranche noted the Board would need an updated tenant list and updated water usage list from the landlord, Mr. Jamieson, to go with this application. Ms. LaBranche asked if Ms. Martin was to have specific parking spaces appointed for her business; *Ms. Martin noted her clients would come in one at a time and there was adequate parking at the front of the condos.* Mr. Morales asked if she was going to have a sign; *Ms. Martin indicated there would be one on the main marquee for the business condos.*

Mr. Cacciatore opened the floor to abutters. There being none, Mr. Cacciatore closed the floor to abutters.

Conditions for this tenant will be:

- Approved to conduct nutritional counseling / hydrotherapy.
- Hours of operation to be 7:00 am - 6:00 pm, Monday through Saturday.
- Landlord will submit an updated tenant list and water usage chart which includes this business as soon as possible.
- An approved sign may be installed on the marquee.
- Any change to the approved conditions would require the applicant to come back before the Planning Board.

Mr. Cacciatore asked if there was any further discussion from the Board. There being none, he asked for a motion.

MOTION: Mr. Bath **MOVED** to approve the site plan for Ezhra Martin dba Genesis Alternative Health to conduct her nutritional counseling/hydrotherapy business at 14 Powwow River Road Unit #3 with the above-mentioned conditions; Mr. Morales seconded; the vote was unanimous.

Mrs. White noted Ms. Martin would receive a copy of the decision in the mail.

Ms. Martin thanked the Board for their time. Mr. Cacciatore closed this public hearing.

Public Hearing for a Site Plan Review for Merrythought (Mark & Carrie Allin), 10 North Road, East Kingston (MBL 14-03-06) for the expansion of a commercial use

Mr. Cacciatore opened this public hearing and invited Mr. & Mrs. Allin to explain their application. The Allins provided a packet of photographs of various inside and outside views of their property with narrative for the Board to review. Mr. Allin turned over the discussion to his representative Mr. Dennis Quintal P.E.

Mr. Quintal noted the Allins have been before the Board before for various changes to their business and have always made sure to comply with the ordinances and regulations. They were before the Zoning Board of Adjustment last week and received the variance needed to expand the building. They were here tonight to ask for the Planning Board's approval for the expansion of use to go along with the variance. The addition will move the existing garage doors out 25½' to a new wall and the view of the front of the building will look as it does now.

The Allins have added landscaping to the front of the property, and installed awnings over the doorways. There are low intensity lights on the front for security purposes. They have also made substantial improvements to the second floor, which serves as their living quarters. They have made many improvements to this property.

The Allin's use of the building would not change; they would still operate the way they do at the present time; the addition would give them some more room to do their job. It will enable them to keep the cars in the building that they are now renting space elsewhere to accommodate as at the present time there is no room inside. They are not adding more employees or expanding the actual business.

The addition is within the existing building setback and because this areas is already black-topped, there would be no change in stormwater runoff. There is an underground septic tank in the front under the parking area, and the leach field is to the right of the building, which negated any possibility of enlarging the building in either of those directions. The proposed addition will not interfere with either the septic system or the well. The drainage will not change, and there are no engineering or environmental issues.

Mr. Cacciatore asked if the Board had any questions.

Ms. LaBranche noted they meet the waiver requirements for the new stormwater management standards as they are not increasing runoff. Ms. LaBranche asked if there would be a second floor above the addition. *The Allins answered there would not; it would only be one floor with a flat roof.*

Ms. LaBranche asked that the following notes be added to the plan:

- The addition will be constructed from the same materials as the original building, with a brick facing, the same height, roof configuration, with no living space above.
- Also that they are exempt from the stormwater management standards as the addition will be built on the existing paved area.

Mr. Cacciatore opened the floor to abutters. There being none, Mr. Cacciatore closed the floor to abutters.

Mr. Cacciatore asked if there was any questions from the Board. Mr. Morales noted the Allins have improved the look of the building significantly. He noted that since there are not many commercial businesses in the community, it is fortunate to have such a great company such as theirs that has made them all proud. Mr. Cacciatore commented the building looked the best he has seen it in 30 years.

There being no more questions, Mr. Cacciatore asked for a motion to take jurisdiction.

MOTION: Dr. Marston **MOVED** to take jurisdiction of the site plan for Merrythought (Mark & Carrie Allin), 10 North Road, East Kingston (MBL 14-03-06); Mr. Bath seconded; the vote was unanimous.

Mr. Cacciatore asked for motion concerning the expansion of use.

MOTION: Dr. Marston **MOVED** to approve the expansion of use for Merrythought (Mark & Carrie Allin), 10 North Road, East Kingston (MBL 14-03-06) with the above mentioned notes to be included on the plan; Mr. Morales seconded; the vote was unanimous.

Mrs. White noted the Allins would receive a copy of the decision in the mail.

The Allins and Mr. Quintal thanked the Board for their time. Mr. Cacciatore closed this public hearing.

Discussion with George Haskins regarding road completion and trash pick-up for Country Hills.

Mr. George Haskins, introduced himself as President of the Board of Director's for Country Hills. He wanted to discuss two items with the Board. He will address them one at a time.

The first item Mr. Haskins wanted to address was the road. The original completion of the roads by the developer called for backing the edges with gravel. The residents would like to have them backed with loam and seeded to blend in with the existing planted areas adjacent to the road.

Mr. Haskins had spoken to the Town's consulting engineer and he has no objections but suggested he discuss this with the Planning Board. Mrs. White offered a reply from the Town Engineer Jay Stephens. Mr. Stephens indicated his meeting notes stated his comment to Mr. Haskins was "...until a revised plan is accepted by the Planning Board, CC inspections and comments will be based upon the approved plans (which say gravel shoulders)."

Ms. LaBranche noted that in her reading of the Town Engineer's report, the change from gravel to loamed edges of the road would change the integrity of the pavement. Mr. Quintal answered there was already a good gravel base and it would only be 2" of depth for the soils.

Mr. Quintal noted that he had done the original plan for the road, which did require base, shoulders and pavement thickness and drainage requirements to meet Town standards. He has now been asked by the developer to provide an as-built plan. This plan is nearly complete to submit to the Town with the exception of the issue regarding the shoulders.

The Planning Board needs a letter from the developer stating he accepts the request from the homeowners association to make the change on the as built- plan from gravel shoulders to loamed and seeded shoulders. A signature line should be included so that when the letter is received, the Chairman can sign and work can commence. When the work is completed and the as-built is received, the conditions will be met. There was Board consensus for the Chairman to sign off on the as-built plan when received.

Ms. LaBranche suggested the notes be added to the as-built that the minor change was at the request of the homeowner's association and the developer complied with the request. It should also have a space for the signature of the Board of Director's for the homeowner's association. This plan should then be recorded. Mrs. White noted there would be a charge from the registry to record that page.

Ms. LaBranche asked if the homeowner's association owed the road yet. Mrs. Haskins stated the road was complete, but the *approval* of the road is not complete yet to his knowledge.

Mr. Cacciatore asked for a motion.

MOTION: Mr. Bath **MOVED** to approve the change to the road shoulders at Country Hills provided a letter is received from the developer documenting the minor change of the site plan at the request of the Homeowners' Association. Once the improvements are completed, the developer will provide an as-built that includes a notation of the change and that it was at the request of the Homeowner's Association.

Signature lines should be added for both the President of the Board of Directors for the Homeowners Association and the Chairman of the Planning Board Chairman so the as-built may be recorded. Mr. Cacciatore seconded; the vote was unanimous.

The second item had to do with the trash pick-up at their community. The residents currently have a dumpster for their trash services. They wanted to know if there was a possibility of getting curbside trash pick-up versus the dumpster they currently have. With the completion of the last few houses in the community it has become apparent the dumpster is too close to the homes and poses a significant problem due to its proximity. Also with the completion of the houses, the house nearest looks directly into the dumpster.

Another concern was the fact that the dumpster fills up quickly now that the build-out of the community is complete. And it poses a hazard for residents in inclement weather to have to walk to the dumpster to dispose of their trash. At the current time, they have pick-up of recycling at the individual residences.

There was explanation from ex-officio Morales that the contract between Waste Management and the Town was for a dumpster at that location. The Selectmen have already signed the contract for the next year, and Mr. Morales suggested the Homeowners Association write a letter to the Selectmen asking for the change and explaining their rationale for wanting the change. It will then go before the Trash Committee who will review it. Mr. Morales' perception is that there will be some type increase in the trash removal fee for the Town to change from dumpster to individual pick-up. Just how much would not be known until it is time for the next contract.

The Selectmen can address it at the contract time next year. He noted in the meantime, they might want to write a letter expressing their concerns about the dumpster filling up quickly. Mr. Morales noted the Selectmen may be able to negotiate for a larger dumpster or more frequent pick-ups with minimal impact. Mr. Haskins indicated a larger dumpster would not alleviate the problem temporarily, but more frequent pick-ups could.

Mr. Haskins thanked the Board for their time.

Discussion regarding the 100' Town setback versus the State 75' setback from wetlands and surface water.

ZBA Chairman John Daly had asked the Board consider changing their regulation of 100' pertaining to the setbacks from poorly drained soils to match the state setback of 75'. Conservation Chair Mr. Quintal also recommended the change. If the setback was changed to match the states', there would be no confusion and eliminate the necessity for variance hearings.

Currently the State statute requires the setbacks to be 50' from poorly drained soils and 75' from very poorly drained soils. Article VII - General Provisions in the East Kingston Zoning Code, paragraph 6. states the setback shall be 100' from surface water which is a higher standard than the state requires. It is also listed in Article IX - Lot Area and Yard Requirements under paragraph H. Dimensional, frontage and area requirements.

Ms. LaBranche stated she saw no reason for it not to be changed to match the state setback requirements.

Currently they read as follows:

Article VII - General Provisions - Paragraph D.6.

Septic system leach field boundaries shall be located more than 20 feet from any property boundary, 100 feet from any surface water, 75 feet from existing or proposed private wells, and 125 feet from existing or proposed community wells.

Article IX - Lot, Yard and Area Requirements - Paragraph H.

*Septic system leach field boundaries shall be located more than 20 feet from any property boundary, 100 feet from any surface water, (75 feet from existing or proposed private wells, and 125 feet from existing or proposed community wells).

There was Board discussion on how best to present the information for a warrant article. It was noted these changes are being made to have the setback distances consistent throughout the ordinance and conform with the state requirements.

MOTION: Mr. Morales **MOVED** to submit two warrant articles (Article VII.D. and Article IX.H.) at the December Planning Board meeting changing the 100' setbacks to 75' for consistency and to conform with State requirements. Mr. Bath seconded; the vote was unanimous.

YMCA

Mrs. White had distributed information to the Board regarding the Zoning Verification Form for the after school program run by the YMCA at the East Kingston Elementary School showing it was Charitable Organization. This cleared up some questions the Board had previously in regard to this subject.

MOTION: Mr. Bath **MOVED** the Planning Board send a letter to the Selectmen asking them to sign the Zoning Verification form for the YMCA having verified it is a legal use. Mr. Cacciatore seconded; the vote was unanimous.

Mrs. White will send the letter to the Selectmen for the Board.

Growth Management Review

This will be reviewed at the December meeting.

Other Board Business

Main Street Car Sales

On the Main Street Car Sales issue, Mrs. White reported she had spoken to the resident, who indicated he could not attend the Planning Board meeting due to his work hours. There was Board consensus that he needed to speak to the Board, or send a representative to answer their questions. The residence was in the Town Center District, under which the Permitted Uses which expressly forbade the sales of vehicles.

The Ordinance reads: Town Center District - Permitted Uses

1. Commercial uses defined by East Kingston Zoning Ordinance Article IV – COMMERCIAL DISTRICT, except that those businesses which display inventory in the open (e.g., vehicles, trailers, motorized operating equipment and machinery) are prohibited.

After more discussion, the Board concluded that there was no need for him to come to the Board himself or have a representative attend as the use did not qualify for a Home Occupation and would need to seek relief from the ZBA.

There were some ways the resident could address the issue, but he could not continue to sell cars until a remedy was received. He could go before the ZBA for a Use Variance public hearing. If he received the variance, he would then need to come before the Planning Board for a minor site plan review public hearing.

There was also some discussion of whether or not he would need to have a state permit.

December Meeting

Mrs. White reported that there will be one home occupation application coming before the Board in December.

Change of Meeting Schedule

Mrs. White requested a change in scheduling for the May Planning Board meeting as she will not be available on the regularly scheduled meeting date. She suggested May 8th, noting that the May ZBA meeting will also need to be rescheduled for their May meeting, most likely to May 29th.

The Board agreed to the change; Mrs. White thanked them for the accommodation. She will make the change on next year's schedule.

ADJOURNMENT

MOTION: Dr. Marston **MOVED** the Planning Board adjourn, Mr. Bath seconded. The motion was unanimous.

The meeting was closed at 8:50 pm. The next Planning Board meeting will be December 19.

Respectfully submitted,

Barbara White

Barbara A. White
Planning Board Secretary

Minutes approved December 19, 2013

Mr. Cacciatore
Chairman