

TOWN OF EAST KINGSTON, NH
PLANNING BOARD MEETING MINUTES
December 6, 2001

AGENDA

7:15PM Zoning Ordinance and Impact Fee Ordinance-Discussion

8:00PM Jeff Caley & Gary Densen, Trustees East Kingston Nominee Trust-SPR, Elderly
Housing Dev.-Public Hearing

8:45PM Growth Control Ordinance-Annual Review

Members attending: Richard A. Smith, Sr. – Chairman, Beverly A. Fillio – Vice-chairman, John L. Fillio– Ex-officio, Dr. Robert Marston, David G. Morse, and Alternate Member J. Roby Day, Jr.

Others attending: RPC Planner Maura Carriel, Conservation Commission Chairman Larry Smith, Building Inspector Kent Shepherd, Fire Department Lieutenant Andy Conti, Atty. John Ratigan, Dennis Quintal, Scott Szuba, Ellyn Olson, Ron Morales and other members of the public who did not address their concerns.

Chairman Smith opened this December 6, 2001 planning board meeting at 7:03 p.m. with the role call.

Minutes: The board reviewed and amended Planning Board minutes dated November 15, 2001. Those present and eligible to vote on their acceptance were Chairman Smith, Vice Chairman Fillio, Mr. Fillio, Mr. Marston, Mr. Morse, and Mr. Day.

Following discussion, members of the board continued the November 15, 2001 minutes for approval until the next Planning Board Meeting scheduled for December 20, 2001.

Incoming Correspondence: Chairman Smith acknowledged the following incoming correspondence:

1. NHDOT driveway permit for Richard Cook, Haverhill Road.
2. Regional Personal Wireless Services-proposed ordinance to install more towers in Town.

Capital Improvements Program: RPC Planner, Maura Carriel, distributed copies of the East Kingston Capital Improvements Program, 2002-2007, adopted November 8, 2001, to board members for their review.

Zoning Ordinance: Chairman Smith opened the public hearing on the Zoning Ordinance addressing the renaming and reorganization of zoning articles for the purposes of placing on the March 2002 Zoning Ballot.

Mr. Day distributed updated copies of his recommendations to reorganize and renumber the zoning ordinances. His format included renaming some of the articles, and he stated, for clarification, that the description of Article #28 has been left blank at the present time, but the number will be reserved. He added that the articles have simply been placed in a more orderly fashion to make them easier to locate in the ordinance book.

Municipal Zoning Parameters

- I Purpose
- II Definitions
- III Districting
- IV Commercial District
- V Light Industrial/Residential District
- VI Wetlands Conservation District
- VII General Provisions
- VIII Uses Permitted
- IX Lot Area and Yard Requirements

Zoning Regulations

- X Flood Plain Development
- XI Single Family Cluster Residential Development
- XII Elderly Housing
- XIII Growth Control
- XIV Septage/Sludge Disposal Facilities

XV Telecommunications Facilities

XVI Home Occupations

Governance and Execution

XVII Building Inspector and Permits

XVIII Impact Fees for Public Capital Facilities (Placement if adopted at Town Meeting)

XIX Board of Adjustment

XX Unnamed – Structure or Land Use Conformance

XXI Unnamed – Ordinance Violation Penalty

XXII Unnamed – Ordinance Validity

XXIII Unnamed – Ordinance Application Authority

Mrs. Fillio stated that the articles have been placed in a more sensible order. All members were agreeable to Mr. Day's suggestions. Chairman Smith then requested public comment.

MOTION: Mr. Morse motioned to approve the renaming and reorganization of the articles within the Zoning Ordinance as presented by Mr. Day for the purposes of placing on the March 2002 Zoning Ballot. Mrs. Fillio seconded. With no further discussion, the motion carried 5-0.

Impact Fees: Chairman Smith opened the public hearing on impact fees for the purposes of placing on the March 2002 Zoning Ballot.

Mr. Day noted stated that he and Ms. Carriel had addressed several administrative questions, and added an exemption chapter. He added that barns, woodsheds, and non-residential agricultural buildings would be excluded from the impact fees.

Mr. Morse stated that some horse facilities contain trainer's apartments, even though they are agricultural buildings.

Mr. Day stated that the impact fee process would be triggered by the application for a building permit.

Mr. Ronald Reynolds inquired if an impact fee would be assessed on properties containing a main residence with a rental trailer on the same property.

Mrs. Fillio stated that properties with more than one residence would be a Code Enforcement issue.

Ms. Carriel stated that she and Mr. Day had incorporated provisions of the Town of Epping's impact fee ordinance, one being a mechanism for an offering in lieu of a cash payment.

Mrs. Fillio questioned the legality of the subdivision site being offered to the East Kingston Public Library with Current Use fees to be used as payment, as discussed at the Monday, December 3, 2001 Selectmen's Meeting.

Mr. Day suggested presenting this question to Town Counsel.

Atty. Ratigan stated that, for example, property purchased abutting a school will sometimes provide sports fields to the school, in lieu of payment of the impact fee.

Mr. Day stated that a waiver would be granted by the Building Inspector on properties that have already been assessed an impact fee for other reasons, such as development or a capital facility. If there is no impact, there is no fee. He went on to suggest the possibility of a partial waiver, to be granted after the applicant has submitted a study of demand offering proof that the impact is not as great as the Town originally thought it would be.

Ms. Carriel suggested that Town Counsel again review the proposed Impact Fee Ordinance.

Mrs. Fillio suggested that further discussion of this issue be continued until the December 20, 2001 meeting, and all members agreed.

MOTION: Mrs. Fillio motioned to continue the public hearing on the Impact Fee Ordinance until the next meeting scheduled for December 20, 2001. Mr. Morse seconded. With no further discussion, the motion carried 5-0.

Off-Site Improvements: Chairman Smith opened discussion on off-site improvements.

Mr. Day stated that discussion followed the November 15, 2001 meeting at which he agreed to draft language for off-site improvements for Town Counsel to review. He inquired as to what more the board felt needed to be said. Mrs. Fillio stated that she did not fully understand the second paragraph, and inquired if paragraph 1.2 is necessary.

Mr. Day stated that he thought the information contained would make the future easier, and that regulation of off-site improvements is a legitimate function of the Planning Board.

Discussion ensued by board members suggesting placing the paragraphs of language in an order that would be clearer to the reader.

Mr. Morse inquired if the off-site improvement fee would be above and beyond the impact fee.

Mr. Day stated that either the off-site improvement fee or the impact fee would be imposed, one or the other, and the Planning Board must make a decision as to which. He offered to make changes in the order of the ordinance to be prepared for the next meeting.

Chairman Smith directed that this issue be brought up again at the next meeting.

Jeff Caley & Gary Densen, Trustees, East Kingston Nominee Trust - SPR, Elderly Housing Dev.-Public Hearing : At this time, Dr. Marston left the board's table and took a seat in the audience, as he is an abutter to the proposal. Chairman Smith opened the public hearing at 8:10 pm. Representing Jeffrey Caley and Gary J. Densen, Trustees, East Kingston Nominee Trust, was Atty. John Ratigan, counsel for the applicants.

A Preliminary Site Plan prepared by Mr. Dennis Quintal of Civil Construction Management, Inc. of Newton was displayed and copies were provided to the board, for the proposed elderly housing development to be named "Country Hills of East Kingston."

Chairman Smith noted that the proposed site is located at the former Gilbert Bioteau property at 163 North Road.

Mr. Quintal stated that proposed are 102 bedrooms, (51 2-bedroom units.) Each house will have a garage and 1,466' of living space. Groups of seven homes will have their own septic systems that will pump into a common leaching area. In addition to the proposed entrance, "Autumn Lane," an additional gravel access road is proposed that will be maintained by the association for emergency purposes. 13.7 acres of open space is proposed, and the minimum requirement is 7.6 acres.

Mr. Quintal went on to state that a highway access permit, dredge & fill permit, and a water supply permit have been obtained from the State. He stated that he had reviewed the comments received from Ms. Carriel, and seeks suggestions and possible solutions from the Planning Board.

Areas of concern expressed by the board included:

- the width of the main entrance
- the length of the cul-de-sac, (the maximum length according to Town Ordinance is 1000'.)
- maintenance of the gravel access road
- accessibility for emergency vehicles

ABUTTER'S COMMENTS

Scott Szuba asked if this will be a completely private property, how much water will be drawn from the wells, and will the association monitor the level of water in the abutter's wells? Mr. Quintal replied that the state has reviewed and approved the water supply permit, and that they must follow state regulations for draw, quality and quantity. He added that the rules governing privacy will be controlled by the association. Mr. Szuba also asked if a limit on elderly housing would be imposed by the Planning Board. Ms. Carriel responded that the Town may need to modify the cap on yearly elderly housing units built.

Ellyn Olson asked that in the event of her well going dry, what guarantee does she have that the association will replace it? Mr. Quintal replied that if evidence is presented that a private well has gone dry, the association would be liable. Ms. Olson stated that she would like that guarantee in writing, and for the Planning Board to provide her assurance that her well would be replaced.

Ron Morales asked if soil testing had been done. Mr. Quintal replied that Soil Consultants from Newmarket, NH had tested the soil for soil content.

Discussion ensued regarding the configuration of the entrance road and possible gravel access road. In response to Mrs. Fillio, Fire Department Lt. Andy Conti replied that access for the Fire Department would be better than what is currently offered by Rowell and Rowell Cove Road, as they cannot travel at over 2 miles per hour on those roads. He stated that the covenants should hold them to a safe standard.

Ms. Carriel suggested that since 2 ½ hours of discussion had taken place with no consensus reached by the Board, that a Planning Board Work Session be scheduled for January 10, 2002.

MOTION: Mrs. Fillio motioned to schedule a Planning Board Work Session to continue discussion of "Country Hills of East Kingston," to January 10, 2002. Mr. Fillio seconded. With no further discussion, the motion carried 5-0.

Growth Control Ordinance: Chairman Smith opened the public hearing at 10:40 pm.

Ms. Carriel stated that this hearing is to facilitate the annual review of the Growth Control Ordinance, and the sunset clause which states:

This article expires at Town Meeting 2001, unless the following occurs:

An annual review by the Planning Board to determine if the population and growth data, in conjunction with the CIP, justifies the continued application of the ordinance. If, after making findings, the Board feels that this article is both appropriate and necessary to meet the purposes outlined above, this article would be effective for another year, when another annual review shall occur. After making findings, the Planning Board may change the number of permits allocated annually based on data received during the year to ensure the purposes of this article.

Ms. Carriel stated that the annual hearing was continued from the last meeting, and she had discussed with Building Inspector Kent Shepherd items #8, 9, 10 & 11, with regard to future funding for a possible second story to be added to East Kingston Elementary School, additional information for the CIP, and newly added information concerning all recommended road projects.

Chairman Smith commented that Ms. Carriel had done a very good job with information necessary to justify the continuance of the Growth Control Ordinance.

MOTION: Mrs. Fillio motioned to continue use of the Growth Control Ordinance for one year. Mr. Fillio seconded. With no further discussion, the motion carried 5-0.

W are R. Day Mylar: It was noted that the Day Subdivision Plan proposal has met all conditions set forth in the board's approval that was given on November 8, 2001. Mr. Shepherd confirmed that he inspected the bounds and found them acceptable. He indicated that he applied his approval stamp and signature to one of the plans and to the Certification of Monumentation form. Chairman Smith reviewed the plan and for the purposes of recording into the minutes, he applied his signature to the mylar and to four sets of plans. He then directed the recording secretary to record the mylar at the Registry of Deeds.

With no further business,

MOTION: Dr. Marston motioned to adjourn. Mr. Fillio seconded. With no further discussion, the motion carried 5-0 and this December 6, 2001 Planning Board meeting ended at 10:45 p.m.

Respectfully submitted,

Cheryll Hurteau, Administrative Assistant II
Minutes completed and on file December 7, 2001.

Approved: _____