



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

2005-2006  
James Roby Day, Jr., Chairman  
Richard A. Smith, Sr., Vice Chairman

**MINUTES**  
(Regular Meeting and Public Hearing of December 15, 2005)

**AGENDA:**

- 7:00PM – **Call to Order and Board Business**  
7:15PM – **Public Hearing** – for Zoning Ordinance Article XVI– HOME OCCUPATIONS change recommendation  
7:30PM – **Public Hearing**– for Zoning Ordinance Article XII– ELDERLY HOUSING annual review  
7:45PM – **Public Hearing** –for Brian Beattie, 16 North Road (MBL 14-3-5) for a site plan review for the proposed construction of a fire pond (PB #05-OA)  
8:15PM – **Public Hearing** –for a site plan review of Brentwood Commons, LLC, in regard to One Taylor Way (MBL 7-1-7) to relocate the easement for a fire cistern. (PB #05-OB)  
8:45PM – **Discussion Only** – for Steven Davis, 13/19 Giles Road in regard to a proposed subdivision  
9:00PM – **More Board Business**  
9:15PM – **Adjournment**

**CALL TO ORDER AND BOARD BUSINESS**

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

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

Members present – Mrs. CE Belcher, Chairman JR Day, Dr. RA Marston, DVM, Vice Chairman RA Smith; Mr. R Morales, ex-officio  
Alternate member present –Mr. EA Lloyd  
Advisers present – Dr. Jill Robinson, Rockingham Planning Commission Senior Planner (RPC); Fire Captain A Conti, East Kingston Fire Department; Mr. RR Donald, East Kingston Building Inspector; Mr. LK Smith, Conservation Commission

**BOARD BUSINESS:**

**Minutes –**

**MOTION:** Mr. Morales **MOVED** that the Board accept the minutes of the November 17, 2005 meeting with corrections. Mr. Smith seconded and the motion carried unanimously.

**Action/Info Items–**

**Bowley Real Estate, LLC–** Mr. Day stated that this application is close to being complete and he will soon be signing the mylar. The pins would now be granite bounds and the fire pond is now a cistern. Mr. Donald stated that he has not done a Certificate of Monumentation because he has not received a phone call that they are in yet. Mr. Day referred to a letter from Jones and Beach Engineers, Inc. stating they will be putting the granite bounds in when the weather conditions are more favorable in the spring. The plans accurately reflect the granite bounds. He added that he would grant them this consideration and it is included in the bond. Mr. Donald added that he also does not have a problem with it, if they sell a lot, the bank will mandate that the property is surveyed. Mr. Day stated that this won't affect his signing the mylar. He added that one of the conditions of approval said that there will be a bond to ensure that the landscaping at the intersection didn't dry up and die. Town Counsel felt that it should be a

separate bond, but there is a bond for Rowell Road and a performance bond for the construction of the two new roads. The Town Engineer will be tracking the bonds as well as the Selectmen. Mr. Day added that this won't hold up the process either. The landscape bond is for three years.

**Proposed Ordinance Changes** – Mr. Day noted the proposed ordinance changes for fees and zoning ordinances, village district proposal, building vs. structure definitions, general provisions article. He added that if the Board wants to go to Town Meeting with these ordinance changes, a work session will be necessary. It was agreed to have a work session on December 29, 2005 at 7:00PM.

**Citizens' Petition** – Mr. Dunlop, Carmen's Diner, wants to make his lot commercial. The petition will be checked by the Supervisor of the Checklist and will be on the January Agenda.

**January 19, 2006 Agenda** – Mr. Day stated that Mr. Osgood is coming before the Board with a four-lot subdivision. Discussion ensued regarding whether he should come before the Board for a discussion only. Mr. Day cited RSA 674:35,I, "The Planning Board is authorized to require preliminary subdivision review."

**Bowley Real Estate, LLC** – Mr. Day stated another issue with this plan was the bonding. He has copies of the signed bonds. They are for \$20,000 and \$520,000. There are some misspellings in the bonds. Town Counsel has stated that he knows what it is supposed to mean.

#### PUBLIC HEARING—FOR ZONING ORDINANCE ARTICLE XVI—HOME OCCUPATIONS CHANGE RECOMMENDATION

Mr. Day opened the public hearing.

Mrs. Belcher presented the change recommendation:

10. *Administrative support for businesses and services that are conducted off-site of the residential premises and which ALL the standards outlined under paragraph C. Standards above. Examples of these types of businesses include, but are not limited to, car pentry, general contracting, septic services, landscaping, etc.*

Mr. Day stated that Town Counsel has reviewed this, and sees no problem with it.

Mr. Day opened the floor to abutters, of which there were none, and he closed the floor.

**MOTION:** Mrs. Belcher **MOVED** that the Board place this amendment to Article XVI -- Home Occupation by inserting the new paragraph E.10 to read as outlined above on the March 2006 ballot. Mr. Morales seconded and the motion carried unanimously.

Mr. Day closed the public hearing.

#### PUBLIC HEARING—FOR ZONING ORDINANCE ARTICLE XII—ELDERLY HOUSING ANNUAL REVIEW

Mr. Day opened the public hearing.

Mr. Day cited Article XII – Elderly Housing paragraph B. General Standards. 3. "The number of existing elderly housing dwelling units shall not be included in calculating this four percent. This provision shall be reviewed annually by the Planning Board to ascertain whether the balance between the number of standard dwelling units and elderly housing units continues to reflect the stated goals of the East Kingston Master Plan and the community's long-term planning intentions."

Mr. Day explained that the Board has to review the number of elderly housing units compared to the number of conventional residential units. He has prepared a list of houses. He stated that there are 904 actual dwellings in East Kingston, which includes the Clark proposal, but with only six units. The proportion of elderly housing to conventional housing will have gone down when all the dwellings are completed. There are 751 standard

residences, Mr. Morales stated that 50% of that would be 375. He stated that he felt the number should be reduced from 50%. Mr. Day stated that this can be discussed at the work session.

Dr. Robinson stated in some towns the number is 10%. Mr. Morales stated that it was originally 10% with no cap. Mr. Day cited Article XII. 3. "The total number of elderly housing units shall not exceed fifty percent of the total number of standard residential dwelling units in the Town of East Kingston." At the present it is just over 20%.

Mr. Day opened the floor to abutters, of which there were none, and closed the floor. He stated that this matter will be continued at the next meeting.

Mr. Day closed the public hearing.

PUBLIC HEARING FOR BRIAN BEATTIE, 16 NORTH ROAD (MBL 14-3-5) FOR A SITE PLAN REVIEW FOR THE PROPOSED CONSTRUCTION OF A FIRE POND (PB #05-OA)

Mr. Day opened the public hearing.

Mr. Steve Bradstreet, Aquarion Engineering Services, appeared before the Board for the applicant, Brian Beattie.

Mr. Day explained the history of this application. There was conditional approval of a lot line adjustment. It was recognized that there was a problem with the orientation of the fire pond different from the original plan. Presently, there is a lot line adjustment that is conditionally approved and this application is a site plan review to address the question of the fire pond orientation.

Mr. Bradstreet showed where the piece of the property being granted by Mr. Ewald to Mr. Beattie is located. He showed the location of the piece of property that is of equal square footage that is being granted from Mr. Beattie to Mr. Ewald, it is an even land swap. The intent of that was that Mr. Ewald could retain more frontage on his lot. The orientation has been changed by turning it vertically. The easements have been changed. There are no other changes to the plan.

Mr. Day noted the lot line adjustment plan is very clear in its presentation of lot line dimensions. He stated that it would make organizational sense to move forward and record the lot line adjustment and treat the site plan review as a separate issue. He stated that there is a sufficient amount of information missing from the present plan, ie., the length of the frontage. Mr. Day stated the final plan with the conditions met is needed and a mylar for signage. There are eight conditions outstanding. Mr. Day read the list of conditions:

1. Fire Department approval of fire pond design, and acceptance of its installation and operation.
2. Fire pond easement to be depicted on final plan.
3. Review by Counsel of all easement language for the respective deeds, with signatures completed by all parties prior to approved plan recording.
4. Certificate of Monumentation signed by Building Inspector.
5. Final mylar to include signature blocks for each of the parcel owners making application, with a note saying each of the signatories agrees to the lot line adjustment affecting their respective lots.
6. Final mylar together with full-sized and 11X17 copies to be submitted to the Board for Chairman signature and recording.
7. All fees and charges due the Town in connection with the subdivision, including but not limited to, the reviews of Town Counsel, Town Engineer, RPC Senior Planner and Fire Department, and administrative costs incurred by the Town be fully discharged.
8. MBL 14-3-10 rear boundary reconfigured to preserve a minimum of 125' lot width.

Mr. Beattie stated that Jones & Beach did the lot line adjustment and he will go to them to have all the conditions met.

Mr. Day pointed out that on the site plan review, there are a number of instances where lines go through numbers or words and the Registry will not accept plans with that. He also pointed out the last note #3 on the plan reading,

"Brian Beattie shall be responsible for maintaining water above elevation 139.50 and shall be so written in property deed." Mr. Day suggested changing it to "property owner".

Mr. Day corrected the title block should state MBLs 14-3-5 and 14-3-10.

Mr. Bradstreet stated that the fire pond is still on Mr. Ewald's property. Mr. Day stated that there is also easement language to be looked at to reflect this.

Mr. Day opened the floor to abutters, of which there were none, and closed the floor.

Mr. Day stated the fire suppression system is basically the same design as before just oriented differently and Mr. Conti stated that he will get a letter to the Board accepting the fire suppression system.

**MOTION:** Mrs. Belcher **MOVED** that the Board invoke jurisdiction on the site plan review of MBLs 14-3-5 and 14-3-10 (PB #05-OA). Mr. Morales seconded and the motion carried unanimously.

Mr. Day went through the list of proposed conditions:

1. Fire Department approval of suppression system.
2. Review of all easement language for MBLs 14-3-10 and 14-3-5 by Counsel.
3. All fees and charges due the Town in connection with the subdivision, including but not limited to the reviews of Town Counsel, Town Engineer, RPC Senior Planner, and Fire Department, and administrative costs incurred by the Town be fully discharged.
4. Final mylar with full-sized and 11X17 copies to be submitted to the Board for Chairman signature.
5. Correct note referring to Brian Beattie to read "Property Owner of MBL 14-3-5".
6. Correct title block information to reflect both MBLs 14-3-5 and 14-3-10.
7. Correct plan drawing to remove lines through numbers and words.
8. Indicate plan reference #3 with lot line adjustment of October 20, 2005.

**MOTION:** Mrs. Belcher **MOVED** that the Board grant conditional approval to the site plan review of MBLs 14-2-5 and 14-3-10 (PB #05-OA) with the 8 conditions noted above. Mr. Morales seconded and the motion carried unanimously.

Mr. Day closed the public hearing.

PUBLIC HEARING FOR A SITE PLAN REVIEW OF BRENTWOOD COMMONS, LLC, IN REGARD TO ONE TAYLOR WAY (MBL 7-1-7) TO RELOCATE THE EASEMENT FOR A FIRE CISTERN. (PB #05-OB)

Mr. Day opened the public hearing.

It was clarified that the plan in question is job number 2005-1334.

Mr. Charlie Zilch, S.E.C. & Associates, Inc., appeared before the Board. Mr. Zilch stated that there is an existing cistern easement along Taylor Way. There is an agreement that the cistern can stay where it is. Mr. Zilch was asked by the Chases if there was some way to minimize the easement. He created a ten foot area around the cistern for maintenance. Mr. Mark Chase (property owner) stated that he was told that the Town required a minimum buffer around the cistern by Cronin & Bisson, attorneys. He added that he spoke to the Fire Chief who said he had no knowledge of this requirement. He stated that he didn't mind leaving the cistern where it is, but he wanted the minimum amount of land in the easement.

Mr. Day stated there is no specific requirement about setbacks from easement boundaries for cisterns. Mr. Day asked Mr. Conti what his opinion was of the proposed ten feet on the back side of the easement and whether it would be adequate to maintain the cistern. Mr. Conti stated that if it had to be excavated, more than ten feet would be needed as there is no machine that is less than ten feet wide to do the job. He added that he thought the Fire Chief wanted 25 feet, but Mr. Day stated he never gave him an actual number. Mrs. Belcher stated the reason for an easement is so that repairs can be done. Mr. Conti stated that it would be hard to not disturb more than 10 feet if

repairs had to be done. He stated that he thought that about 25 feet was disturbed when they worked on the Giles Road cistern. Mr. Donald stated that most of the equipment for the Giles Road cistern stayed on Giles Road. Mr. Chase refused the idea of a 25-foot easement as opposed to a 10-foot easement for maintenance. Mrs. Elizabeth Chase stated that she would have no problem with the Town or another entity replacing the cistern if there was a problem, she just doesn't want to give any more land than is necessary. She added that they have an agreement, drawn up by their attorneys to the effect that if the cistern fails, the property owner has no problem with allowing the Town to do what they need to do to repair it. Mr. Day asked if the Town could have that in writing. Mr. Morales asked if it also applies to successive homeowners. Mr. R Smith pointed out that there is no parking space for a fire truck. Mr. Day reiterated that the Chases will not object in the event that some extraordinary effort has to be made to repair the cistern. Mr. Day stated that deeding land to the Town by virtue of an easement results in a tax break.

Mr. Day noted that there is no indication on the plan of any intention or provision for a paved approach to the cistern, which is in the regulations. Mr. Zilch agreed. Mr. Day added that bollards are also required.

Mr. Conti stated that the Fire Department never approved the fire suppression system and the building went on anyway. He stated that the plan should denote exactly what is in the ground and should be stamped by a certified engineer. He added that they did witness and approve it as it was going in, but they still do not have a certified plan set. He stated that what is depicted on the original plan set is not actually what is in the ground, it is a different style. He added that what is there is perfectly fine and meets all the ordinances, but the plan should show exactly what's there.

Mr. Day stated that Fire Protection pages will be needed in the plan set.

Mr. R. Smith recused himself as he is an abutter. Mr. Day stated that Mr. Lloyd is the voting member.

Mr. Donald asked if a certificate of occupancy can be granted before the Fire Department's approval as well as the pad for the truck. He added that it would have to be made of cement, as the asphalt plants are closed for the season. Mr. Day stated that this is a condition of approval that the Fire Department accept the suppression system and whatever that entails. Mr. Conti agreed.

**MOTION:** Mr. Morales **MOVED** that the Board invoke jurisdiction on the site plan review of MBLs 7-1-7 (PB #05-OB). Mr. Lloyd seconded and the motion carried unanimously.

Mr. Day opened the floor to abutters.

Mr. Ken Cummings, Jr., 92 Willow Road stated that he doesn't think there is enough room from the cistern to the road to get a fire truck in. Mr. Day stated that, given what is in Town, that is the standard.

Mr. Day closed the floor to abutters.

Discussion ensued regarding the plan where it says "Drill Hole or Iron Pin to be Set" if this was pre-existing. It was determined that it was a pin at the stone wall. Mr. Day stated that the subdivision regulations state that all bounds will be concrete or granite.

Mr. Day went through a proposed list of conditions:

1. Fire Department approval of suppression system.
2. Review of all easements language by Counsel.
3. All fees and charges due the Town in connection with the subdivision, including but not limited to the reviews of Town Counsel, Town Engineer, RPC Senior Planner, and Fire Department, and administrative costs incurred by the Town be fully discharged.
4. Final mylar with full-sized and 11X17 copies to be submitted to the Board for Chairman signature and recording.
5. Provide Fire Protection page with detailed construction information.
6. Include on final plan a provision for a paved approach with bollards.
7. Provide final plan set of installed cistern to Planning Board and Fire Department.

8. Include depiction and description of paved approach to cistern in accordance with Subdivision Section VII.S.2 on the plan.

**MOTION:** Mr. Morales **MOVED** that the Board grant conditional approval to the site plan review of MBL 7-1-7 (PB #05-OB) with the 8 conditions noted above. Dr. Marston seconded and the motion carried unanimously.

Mr. Day closed the public hearing.

DISCUSSION ONLY – FOR STEVEN DAVIS, 13/19 GILES ROAD IN REGARD TO A PROPOSED SUBDIVISION

Mr. Day opened the discussion.

Mr. Steven Davis appeared before the Board proposing a subdivision.

Mr. Day cautioned that this is a discussion only and anything said is not binding.

Mr. Davis explained where the property is and the location of a trailer on the property. He added that he wanted to give his daughter a piece of land so she can build a house. He wants to make the lot where the mobile home currently is into an approved building lot with 200 feet of frontage and two acres and use the lot behind the trailer lot for his daughter's house. Since there is 369 feet of frontage, he wanted to create a back lot. Mr. Day stated that five acres is required and there has to be at least 240 feet of frontage. Mr. Davis stated the entire property is 18 acres. Mrs. Belcher stated that the only setback to this is if he wanted to use the rest of the acreage, they would be landlocked. There would be no way to get back to those acres. Mrs. Belcher stated that a back lot cannot be added to a back lot.

Mr. Belcher stated that if he wanted to create more than two lots on the property, he would probably have to put in a road. Pushing in a road would allow more building lots. Mr. Davis stated that he did not want to create a road. Mr. Day stated that he would need 50 feet for a road. Mr. Day stated that if Mr. Davis is willing to push a road in, he can carve that piece of property any way he wants to. Mr. Davis stated that he was thinking of putting in a private roadway. Mr. Day stated that a private road has to be built to Town's standards, but the maintenance would be his responsibility, so there's nothing to be gained by making a private road. Mr. Day stated the two options are the roadway or just two lots.

Mr. R Smith suggested that Mr. Davis hire an engineer to see what is possible on the property. Mr. Day added that an engineer would know the procedure for an application and he stated that Mr. Davis could ask the Board for help with the application process. Mr. Morales suggested getting the Town of East Kingston subdivision regulation book in the Town Office. Mr. Davis thanks the board

Mr. Day closed the discussion.

**Bowley Real Estate, LLC** – Mr. Mike Garrepy appeared before the Board. Mr. Day stated that two decisions have been made with regard to this application. He stated that he has received the Jones & Beach letter addressing the monument question. He stated that he has the plan with the monumentation shown. Mr. Day stated that he will be sending a letter to Turner Porter to the effect that the monumentation will be complete with proper bounds in the Spring. Mr. Day stated that they can push the roads in.

Mr. Day stated the other issue was the landscape bonding. Mr. Garrepy is to get a letter to the Board and Mr. Day will, in turn, send a letter to the Town Engineer and when it is time to reduce the bond, it is one of the considerations. In order for Mr. Day to sign the mylar, Mr. Donald is in charge of verifying the monumentation.

Mr. Garrepy stated that he would have the misspellings in the bonds corrected and get a copy to the Board and to Town Counsel. And he will get a letter from Turner Porter to the Board stating that part of the road bond includes a landscaping bond that shall not be released until three years from the planting. Mr. Day stated that he needs an 11X17 copy of the complete final plan set.

Mr. Garrepy thanked the Board.

**ADJOURNMENT:**

**MOTION:** Dr. Marston **MOVED** the Board adjourn. Mr. Morales seconded, and the motion carried unanimously at 9:30PM.

Respectfully submitted,

Recording Secretary

Approved on: 1/19/06