

TOWN OF EAST KINGSTON, NH
PLANNING BOARD MEETING MINUTES
December 16, 1999

FILE

AGENDA

- 7:30 Zoning, Subdivision, & Site Plan Review Amendments – Public Hearing
8:00 David Sabatini– 44 North Road Subdivision – Public Hearing
8:30 Daniel & Joyce Bodwell– North Road Lot Line Adjustment & Subdivision – Public Hearing

Members attending: Richard A. Smith - Chairman, Edward C. Johnson – Vice-chairman, John L. Fillio – Ex-officio, Dr. Robert Marston and Alternate David Morse (7:23 PM).

Absent: Beverly A. Fillio and Alternates Peter A. Riley and Robert Nigrello.

Others attending: Glenn P. Clark – Building Inspector, Sarah Campbell – RPC Planner, Lawrence K. Smith – Conservation Commission Chairman, Bob O’Shea, Daniel Bodwell, Fire Chief Alan Mazur, Christian Smith, PE, Dennis Quintal, PE, David Sabatini, Lucienne & Curtis Jacques, Scott Szuba, and other members of the public who did not address their concerns.

Chairman Smith called to order this December 16, 1999 public planning board meeting at 7:01 PM with the roll call.

Minutes: The Board reviewed the November 18, 1999 Planning Board minutes.

MOTION: Mr. Fillio motioned to approve the November 18, 1999 Planning Board minutes as presented. Dr. Marston seconded. With no further discussion the motion carried 3-0 (Mr. Johnson abstaining).

The Board then reviewed the December 2, 1999 Planning Board work session minutes.

MOTION: Mr. Johnson motioned to approve the December 2, 1999 Planning Board work session minutes as presented. Mr. Fillio seconded. With no further discussion, the motion carried 3-0 (Dr. Marston abstaining).

Work Session: The Board scheduled a work session to be held on January 6, 2000 at 7:00 PM in the Conservation Commission office at the Town Office Building. The agenda would include discussion on the Future Land Use Chapter of the Master Plan, Elderly Housing Ordinance draft, and a Citizen’s Petition.

Planning Board Article: The Board reviewed a draft article for the annual town report. Members suggested that more accurate figures be used in the paragraph regarding school costs and average taxes per household.

At this time Alternate David Morse entered the meeting and Chairman Smith designated him to participate in any voting matters before the board.

Sabatini Plan: Fire Chief Alan Mazur requested a moment with the Board to discuss new fire suppression configurations for the 8:00 PM scheduled public hearing for David Sabatini. He stated that he has recommended to the developer that he propose a common driveway for two of his seven proposed lots in order to address the 1200-ft. cistern/fire pond regulations. Members reviewed the plan and also noted that other lots could be better configured if a common driveway were used, however, it would be up to the NHDOT to allow any new driveway plans.

Zoning, Subdivision, & Site Plan Review Amendments – Public Hearing: Chairman Smith opened the public hearing at 7:37 PM for proposed amendments to the Zoning Ordinance, the Subdivision Regulations, and the Site Plan Review Regulations. Mrs. Campbell presented the amendments as follows:

ZONING AMENDMENTS: Amend Article IV.I (page 9) (to broaden the scope) to read as follows:

Pursuant to RSA 674:1, IV, Town officials and their agents, in the performance of their functions, may be authorized to enter upon any land and make such examinations and surveys as are reasonably necessary and place and maintain necessary monuments and marks and, in the event consent for such entry is denied or not reasonably attainable, to obtain an administrative inspections warrant under RSA 595-B.

Mrs. Campbell explained that this new text, which is the actual language of the statutes, would replace existing text. The existing text was not as clear or as broad as the statute language. With no comments or questions from board members or the public Mrs. Campbell presented the second zoning amendment.

Amend Article IV.F.1 (page 8) to state the exemption currently given to agricultural signs by adding the following language:

Temporary signs for Agricultural/Farming purposes, as defined by RSA 21:34-a, shall be exempt from this size requirement.

Mrs. Campbell explained that the board has historically exempted farm signs from the size requirements and that this amendment simply places this practice on the books. With no questions or comments from the board members or the public,

MOTION: Mr. Johnson motioned to place both zoning amendments (as described above) on the March 2000 ballot. Dr. Marston seconded. With no further discussion, the motion carried 5-0.

SUBDIVISION REGULATIONS: Mrs. Campbell explained that the amendments to Subdivision Regulations are to update the wetlands soil data language to that most recently adopted by the State. The new language sets new standards for soils, wetland, and surface water delineation which is endorsed by various state agencies and the Society of Soil Scientists of Northern New England (SSSNE). The actual language (attached to these minutes) will replace Section VI.J (page 8), incorporate new definitions on page 1, and add a new section VII (page 8).

SITE PLAN REVIEW REGULATIONS: The new wetlands soils data language also needs to be amended in the Site Plan Review Regulations, but instead of adding the entire language, as in the Subdivision Regulations, a reference to them could be added, specifically a new Section J in the Submission Requirements (page 2).

With no questions or comments from board members or the public,

MOTION: Mr. Morse motioned to incorporate the new wetlands data language into the Subdivision Regulations and the Site Plan Review Regulations as presented. Mr. Fillio seconded. With no further discussion, the motion carried 5-0.

It was then noted that because Hydric A and Hydric B terms would no longer be used, amendments would need to be made to the Zoning Ordinance to replace those terms. Hydric A would need to be replaced with the term "very poorly drained" and Hydric B would need to be replaced with "poorly drained". A total of four different articles would need the changes.

MOTION: Mr. Morse motioned to hold a public hearing on January 20, 2000 at 7:30 PM at the Town Hall for the purposes of updating the Zoning Ordinance with the terms of the newly adopted wetlands and soils data. Mr. Fillio seconded. With no further discussion the motion carried 5-0.

David Sabatini- 44 North Road Subdivision-Public Hearing: Chairman Smith opened the public hearing at 8:03 PM for David Sabatini's proposal to subdivide 33.2 acres into 7 lots located at 44 North Road, MBL# 15-3-3. This hearing is continued from November 18, 1999. Professional Engineer Christian Smith representing the applicant began his presentation by reviewing the plans revisions.

He stated that since the last meeting he has had discussions with Fire Chief Alan Mazur and the Planning Board secretary. The Fire Chief suggested that instead of constructing a new fire pond halfway up the hill as previously planned, the existing pond could be converted to a fire pond, a new cistern could be installed, and lots 15-3-8 and backlot 15-3-12 could be allowed to share a driveway that would be accessed off of Route 108. This would eliminate the need for a new cistern on Stumpfield Road and all the lots would be within the 1200-ft. fire suppression regulations.

Mr. Smith continued to say that since the last meeting the boundary issues have been resolved and corrected. The bound abutting the O'Shea property has been confirmed and agreed upon with Mr. O'Shea, and the iron post found abutting the Bodwell property has been correctly identified as an electrical ground post and not a bound. A new bound for that corner would need to be set.

He then submitted a copy of the State subdivision approval docket #SA1999001755 and driveway permits for lot 15-3-7, permit # 06-135-176 and lots 15-3-8 & 15-3-12, permit # 06-135-178 (common driveway). He stated that the State has approved a common driveway for lots 15-3-8 & 15-3-12 - that would measure 16 feet wide at the access point to the fork and then 12 feet wide thereafter.

Mr. Smith further stated that new test pits have been dug for lot 15-3-12 as recommended by the board at the last meeting. Four holes were dug and witnessed by the Building Inspector that morning. It was noted that two of the four test pits failed. Sheet #3 shows the test pit data as well as a detail of the dry hydrant.

Getting back to the common driveway issue, he stated that the Subdivision Regulations prohibit shared driveways, thus a written waiver request from Subdivision Regulation Section IV.D was also submitted. He added that all the setbacks for the driveways have been met.

After reviewing the plan, Mrs. Campbell asked if an adjustment to the lot configurations would be considered to address the poor backlot design – the Board would prefer to see the backlot fronted on Route 108 instead of Stumpfield Road.

Mr. Smith responded that the driveways shown couldn't be moved per the NHDOT. Proper sight distance could only be achieved from those locations. He further stated that this plan addresses the outstanding items listed at the last meeting:

1. State subdivision approval has been received;
2. NHDOT permits have been received;
3. Test pit relocated on lot 15-3-12;
4. The boundary issues have been resolved; and
5. Fire pond proposal has changed.

The Board then reviewed the map. Conservation Commission Chairman Larry Smith noted that no development is being proposed in the wetlands or the flood hazard area, thus his department has no jurisdiction on the plan.

Chairman Smith stated that Town Counsel should review the fire pond and the common driveway easement language. He then questioned how much of the pond would need to be included in the easement to grant perpetual access rights to the fire department for future maintenance. It was noted that half of the pond would be dredged to bring the pond up to fire pond code. The easement language should include access to the pond beyond the hydrant area.

Mr. Morse reiterated the Board's position on reconfiguring the plan to create a better backlot with a common driveway servicing lots 15-3-12, 15-3-8, and 15-3-7. This would reduce the number of accesses on the main road and promote a safer access (in the Board's opinion).

Mr. Smith restated that the Board's common driveway theory would not meet the 400-foot sight distance requirement.

ABUTTERS COMMENTS

Mrs. Lucienne Jacques inquired whether the pond would be privately owned and if so, would there be any fencing installed around it.

Chairman Smith replied that the pond would be privately owned as it borders three different lots.

Mr. Bob O'Shea stated that he would like to apologize to the Board and Mr. Sabatini regarding the lot line issues. After researching the plan, it was determined the current plan is correct. He stated that he had concerns with the amount of pasture he thought he was losing. Again, once he researched and re-measured the area, he determined he is not losing as much land as he first suspected. The boundary issue stands as presented.

On the matter of the shared driveway and the applicant's request for a waiver:

MOTION: Mr. Fillio motioned to grant a waiver from Subdivision Regulation Section IV.D based on (i) the Fire Chief's recommendation for a viable fire suppression plan and (ii) because the Board was not happy with the backlot's original driveway's location on such a big slope. Dr. Marston seconded.

DISCUSSION: Mrs. Campbell stated that although not specifically written, the intent of the backlot provisions requires the driveway be accessed off the road on which the parcel has frontage on.

Mr. Morse stated that he is not convinced the NHDOT would not consider a common driveway with access to three lots instead of the two presented. He would like this investigated.

Mr. Smith replied that the road is not straight enough to achieve the 400-foot sight distance requirement.

Chairman Smith called the vote. The motion carried 3-2 (Mr. Morse and Chairman Smith opposed).

Outstanding items to be addressed:

1. Easement language for both the fire pond and the common driveway must be submitted and then reviewed and approved by Town Counsel.

Chairman Smith then announced that this public hearing would be continued to January 20, 2000 at 8:00 PM at the Town Hall. He then closed the public hearing for Sabatini's subdivision proposal at 8:58 PM.

Daniel & Joyce Bodwell – North Road Subdivision – Public Hearing: Chairman Smith opened the public hearing at 9:00 PM for Daniel & Joyce Bodwell's proposal for a minor lot line adjustment and to subdivide 30 acres into three lots located on North Road, MBL# 15-3-6, 15-3-1, & 15-3-17. Professional Engineer Dennis Quintal would represent the Bodwell's. Mr. Quintal submitted into the record the following:

1. Deed for the property (BK2224 PG1859);
2. NHDOT driveway permit# 06-135-175;
3. Soil Scientist's letter dated August 20, 1999;
4. Driveway waiver request dated December 16, 1999; and
5. Drainage report as required by the Subdivision Regulations.

Noting the application was complete,

MOTION: Mr. Morse motioned to invoke jurisdiction on the plan to subdivide 30 acres in three lots located on North Road, MBL# 15-3-6 and on the minor lot line adjustment plan also located on North Road, MBL# 15-3-1 & 15-3-17. Mr. Johnson seconded. With no further discussion, the motion carried 5-0.

Mr. Quintal explained that the applicants have two objectives with this plan. The first is to propose a minor lot line adjustment between lots 15-3-1 and 15-3-17 to move the boundary to line up with the existing ditch line. The ditch lines are for agricultural purposes and adjusting the boundary line to follow them (ditch line) would eliminate crossing boundary lines during the farming process.

He went on to say that the second objective is to subdivide lot 15-3-6, which was the result of a subdivision back in the early 90's, into three additional lots with a configuration as follows:

- Lot 15-3-14 – 9.93 acres/215 ft. frontage
- Lot 15-3-13 – 6.81 acres /200 ft. frontage
- Lot 15-3-6 – 13.04 acres/ 346 ft. frontage

He stated that the plan shows the limits of the driveway access. Sheet #2 shows the physical features of the parcels in better detail. The plan also reflects the wetlands as delineated by NH Soils Consultants – HISS mapping has been done. He further said that there are over six acres of upland soils between the three lots. The topography survey and the test pits have been completed.

Mr. Quintal stated that the plan shows the 4K areas on each lot as well as proposed house and well locations. Although the parcels are located in the flood zone, development is roughly 600 feet from Great Brook and the flood area is quite away from the upland area. It was also noted that there is no flood elevation issued on the particular zone. He said that Dan Bodwell has never seen the upland areas with water.

Mr. Quintal pointed out an existing dry hydrant located by Tim Bodwell's home (MBL# 15-3-17). The driveway's total length would be 670 feet, which would also access the three lots. The plans have both the LLS and the Soil Scientist's stamps are required. The only outstanding issue is the driveway configuration. When the parcel was originally subdivided in the early 90's, two driveway permits were issued by the State. Only a total of three are allowed, thus this proposed subdivision would receive only one driveway permit to access the three proposed lots.

He further stated that at the last meeting (November 18, 1999) during preliminary discussion, options to access the three lots were discussed. The landowner could either build a cul-de-sac, which would ultimately be owned and maintained by the Town, or a waiver could be granted to allow a common driveway to service all three lots.

At the inquiry of Fire Chief Mazur, Mr. Quintal stated that the driveway length would measure 500-550 feet, thus the farthest fork of the driveway would measure about 1,100 feet from the hydrant – well within the 1,200-foot requirement.

Chief Mazur confirmed that the proposal did meet the fire suppression requirements.

Mr. Quintal stated that the applicant would be willing to construct larger turn-arounds at the house locations to accommodate fire apparatus.

On the application for a minor lot line adjustment,

MOTION: Mr. Johnson motioned to approve the minor lot line adjustment as presented for lots 15-3-1 & 15-3-17. Mr. Morse seconded. With no further discussion the motion carried 5-0.

On the application for a three-lot subdivision,

MOTION: Mr. Morse motioned to grant a waiver from Subdivision Regulation IV.D to allow a common driveway for lots 15-3-6, 15-3-13 & 15-3-14 as approved by the NHDOT. Dr. Marston seconded. With no further discussion, the motion carried 5-0.

The following items were noted on the subdivision plan:

1. A note should be placed on the plan referencing the lots included in the common driveway;
2. The easement language needs to be reviewed and approved by Town Counsel; and
3. The bounds need to be set and verified.

MOTION: Mr. Fillio motioned to grant conditional approval of the subdivision plan for MBL# 15-3-6 as presented with the three stipulations aforementioned. Mr. Johnson seconded. With no further discussion, the motion carried 5-0.

Chairman Smith closed the public hearing for the Bodwell subdivision proposal at 9:35 PM.

Estuaries Management Plan: Conservation Commission Chairman Larry Smith informed the board of the Draft NH Estuaries Project Management Plan. He stated that this is in reference to the Great Bay estuary and that the northern half of East Kingston falls within its watershed. A copy of the draft is available in the Conservation Commission's office for anyone wishing to view it.

Backlot Provisions: Mrs. Campbell stated that it has come to the Board's attention that an amendment to the backlot provisions must be made. The intent of the provision (page 10 – Article VI.B) is to allow a backlot so that parcels would not become land-locked, however, on two separate occasions, the Board allowed a driveway access that is not located within the road frontage of the parcel. Easements across other parcels have been given. This is not the intent of the ordinance. She stated that a new paragraph #7 must be added that states *the driveway must be located within the 40-foot area, as indicated in paragraph #4, on which the lot has frontage.*

MOTION: Mr. Morse motioned to hold a public hearing on the backlot provision amendment as presented on January 20, 2000 at 7:30 PM at the Town Hall. Mr. Fillio seconded. With no further discussion, the motion carried 5-0.

With no other business before the Board,

MOTION: Dr. Marston motioned to adjourn. Mr. Fillio seconded. With no further discussion, the motion carried 5-0 and this December 16, 1999 public Planning Board meeting ended at 9:41 PM.

Respectfully submitted,

Catherine Beigner
Secretary

Minutes completed and on file December 20, 1999.

Minutes approved on 1/20/00.