



PLANNING BOARD
TOWN OF EAST KINGSTON
New Hampshire

2010-2011
David F. Sullivan, Chairman
Ron Morales, Vice Chairman

MINUTES
Regular Meeting 16 December 2010
7:04 pm

AGENDA:

- ◆ **Call to Order**
- ◆ **Approval** November 18 minutes
- ◆ **Continued Public Hearing** for Scott Depanfilis regarding a possible home occupation as a personal trainer at 5 Clark Road (MBL 10-04-08-07)
- ◆ **Continued Public Hearing** for the annual review of the Growth Management Ordinance
- ◆ **Board Business**

CALL TO ORDER: The regular meeting of the East Kingston Planning Board was called to order at 7:04 pm.

ROLL CALL: Mrs. White called the roll.

Members: Mr. D Sullivan, Mr. R. Morales, Dr. RA Marston, and Mr. E Warren. There was no ex-officio in attendance.

Alternates: Mr. P. Gilligan and Mr. J. Cacciatore

Advisors: RPC Planner Ms. Julie LaBranche

Also in Attendance: Scott Depanfilis and co-homeowner Terry Jamro.

Board Business

November 18 Minutes The first item on the agenda was to approve the minutes. Mr. Morales had a slight change on page two.

MOTION: Mr. Morales **MOVED** to approve the November 18 minutes with the change submitted. Mr. Warren seconded; the motion passed unanimously.

Continued Public Hearing for Scott Depanfilis, 7 Clark Road (MBL 10-04-08-07) regarding a possible home occupation as a personal trainer (7:07pm).

Mr. Sullivan opened this discussion and invited Mr. Depanfilis to the front.

At the request of the Board, Mr. Depanfilis had submitted notarized letters from the two people involved in the Covenants (Mr. Joseph Saverese and Mr. Glenn Clark) stating they did not have any concerns with Mr. Depanfilis' proposed Home Occupation request. As the Board had asked the balance of their questions of the applicant during in the last few public hearings, this was the last area for review.

Mr. Morales opined he did not think this home occupation was acceptable as it did not specifically fit anywhere in the ordinance. He stated it appeared they were force-fitting any home occupations not specifically listed in order to pass them and he did not think this was the proper thing to do. Several Board members noted that not each and every anticipated home occupation could have been listed in the ordinance and that was the reason for paragraph E.11. Ms. LaBranche noted that under paragraph E.11 of the Home Occupation Ordinance, this home occupation was suitable; Mr. Warren agreed.

Mr. Sullivan opened the floor to abutters; there bring none, he closed the floor.

The following conditions were placed on this Home Occupation.

1. All standards listed under Article XVI, Paragraph C - Home Occupation Standards.
2. Hours of operation shall be 7:00 am - 9:00 pm Saturday and Sunday, and until 9:00 pm weekday evenings
3. One client at a time shall be accommodated.
4. Swim spa **shall not** be an approved part of the Personal Trainer home occupation as it does not meet the Home Occupation Standards.
5. No sign will be allowed as it is an invisible business.
6. Any change in the nature of the business, its scope, or number of employees shall be reviewed by the Planning Board for approval by the Board of Selectmen.
7. All outstanding or future fees and charges due the Town and administrative costs incurred by the Town will be fully discharged.

Mr. Sullivan asked for a motion.

MOTION: Mr. Warren **MOVED** to send a letter of recommendation with the above stipulations for Mr. Depanfilis' home occupation as Personal Trainer to the Selectmen. Dr. Marston seconded.
Mr. Warren - for; Dr. Morales - for; Mr. Sullivan - for; Mr. Morales - opposed. The motion passed 3-1.

Mrs. White informed Mr. Depanfilis he would receive a copy of the letter of recommendation, and the Selectmen's Office would call him and let him know if he had been approved. The next Selectmen's Meeting would be on Monday, December 20, but Mrs. White was not sure his recommendation could get on the agenda that quickly and it might need to wait until the following meeting.

Mr. Sullivan closed the public hearing. Mr. Depanfilis thanked the Board for their time.

Continued Public Hearing for the annual review of the Growth Management Ordinance

Mrs. White reviewed the information that had been updated:

Table XIII-A - There had been a question under the total number of housing units for 2004. Mrs. White had researched the tax rate chart and inserted all the proper numbers for the years for East Kingston, and changed the applicable % average increase in housing units numbers as well.

Mr. Morales noted an error in the title years in one of the columns, and suggested a bold line between the first and second sections of the report to make it easier to read. Mrs. White will make those changes.

Table XIII-B - Mrs. White had added the figures for 2007, 2008 and 2009 and calculated the percentages. She did not have information for a 2003 equivalent after the last revaluation in 2009; Mr. Cacciatore noted with the market the way it had been, that was an almost impossible number to discern.

The Board decided to remove that line from the report and to add the numbers for 2010 to make the chart current.

Mr. Morales noted there were no figures under columns XI, XII and XIII. Mrs. White replied she did not know where to find those numbers. The Board decided to remove those last three columns from the chart temporarily until the information could be located to update the chart for 2007, 2008, 2009 and 2010.

As reviewed at the last meeting, all census data will be updated next year when the figures are available.

Mr. Sullivan opened the floor to abutters; there bring none, he closed the floor. Mr. Sullivan closed this public hearing.

Home Occupation Form Changes

At the last meeting, the Board had asked Mrs. White to work on language to add to the Home Occupation Ordinance and the application noting permission from a Homeowner's Association would be required if the

applicant was under an Association. Mrs. White had done so and provided the Board a copy of the proposed change to review.

She also noted that if the Board was to pursue this change at the present time and wanted it as a warrant article, it would require two public hearings. Since the deadline was short, it meant two extra meetings would need to be scheduled (for noticing purposes) between this meeting and the next scheduled Planning Board meeting on January 20.

Mrs. White suggested since the Board wanted to make more changes to the ordinance and clarify the list of permitted uses, they might want to wait and work on those changes in the coming year and submit all the proposed changes to the ordinance for the next year's warrant when there would be adequate time to schedule public hearings without cramming them up at the last minute to meet the deadline. It would also give them time to research what permitted home occupations they wanted to include in the ordinance. In the meantime, if any other situation came before them involving a homeowner's association, they could handle it as they had this one.

The Board agreed that was what they should do, but asked Mrs. White to add the line regarding permission from the homeowner's association to the application; it was not part of the ordinance and did not need a warrant article to make that change. Mrs. White will do so, also noting Mr. Morales' suggestion to add **NOTE** in bold.

Mrs. White will contact some other towns to see what types of home occupations they allow.

Comcast

Mrs. White noted the Board of Selectmen had passed on to her a portion of the proposed Comcast contract and noted that Section 3.1(c) had named the Planning Board. Following is the paragraph from the contract:

(c) Provided Franchise has at least ninety (90) day's prior written notice concerning the opening of residential subdivision trenching, or of the installation of conduit for the location of utilities, it shall install its cable in such trenching or conduits or may seek permission to utilize alternative trenching or conduits within a comparable time. If substantial quantity of cable is required for a large subdivision and said quantity is not in stock, Franchisee shall be allowed additional time for said installation. The Franchising Authority, or its designee, shall exercise reasonable efforts to have the Planning Board and developers give timely written notice of trenching and underground construction to Franchisee. Developer shall be responsible for the digging and back-filling of all trenches.

The Selectmen wanted them to be aware of that fact and know if they had any questions. Mrs. White had spoken to Comcast representative Mr. Somers for an explanation of the paragraph and he told her the cable company wanted to be notified of any new subdivision that was going in and the contact person (contractor) so they could make arrangements to run their cable lines in at the same time as other underground utilities were being installed, and before any final landscaping was done. They were hoping to alleviate any concerns with residents and eliminate the need to dig up existing landscaping.

The Board had no questions or concerns and determined they would add that note to the subdivision checklist.

Planning Board Rules of Procedure

Mr. Morales noted several changes to the Rules of Procedure. He also suggested that since there had been changes since the inception of the Rules of Procedure in 1991, each place there had been a change should have that date noted after it the same as changes were noted in the ordinance book. Mrs. White will research if she can find what changes were made on what dates and incorporate those dates into the rules.

The Board also noted it would be a prudent to include on their agendas from now on a line stating that in the event of a quorum of only three members for amendments to the Master Plan, or adopting Subdivision or Site Plan regulations, all three members would need to vote in the affirmative as per RSA to make it a legal decision.

Handouts to the Board

- Rules of Procedure
- Information provided by Mr. Gilligan from the OEP Conference
- Two articles re: zoning

ADJOURNMENT

MOTION: Dr. Marston **MOVED** the Planning Board adjourn. Mr. Warren seconded. The motion passed unanimously.

Mr. Sullivan closed the meeting at 8:08 pm.

Respectfully submitted,

Barbara White

Barbara A. White
Recording Secretary

David F. Sullivan
Chairman

Minutes approved January 20, 2011