

TOWN OF EAST KINGSTON, NH
PLANNING BOARD MEETING MINUTES
December 18, 1997

FILE

AGENDA

8:00 Walter Zwearcan/Wayne Ewald – North/Stumpfield Roads – Subdivision/LLA – Public Hearing
8:20 Proposed Zoning, Subdivision, Site Plan Review Amendments, CIP – Public Hearing

Members attending: Richard A. Smith Sr. - Chairman, James Roby Day, Jr. - Ex-officio, Catherine George, and Alternates Beverly Fillio and Robert Nigrello.

Others attending: Lawrence K. Smith - Conservation Commission Chairman, Sarah Campbell - RPC Circuit Rider, Glenn P. Clark – Building Inspector, Wayne Ewald, Walter Zwearcan, Alan Resnick, James Nupp, Nathaniel Rowell and Charles Marden.

Chairman Smith called to order this December 18, 1997 public planning board meeting at 7:32 p.m. with the roll call. He then designated Mrs. Fillio and Mr. Nigrello to vote in the absence of Mr. Johnson and Dr. Marston.

November 20, 1997 Planning Board Minutes: The Board reviewed the minutes dated 11/20/97 and noted corrections.

MOTION: Mr. Day motioned to accept the November 20, 1997 Planning Board minutes as amended. Mrs. Fillio second. The motion passed 5-0.

Proposed Commercial District: Mr. Day informed the Board that the Future Land Use and Acquisition Committee have collected 38 registered voter's signatures to petition the expansion of the commercial district located on Routes 108/107 and 107. He noted that Sarah Lazor, Supervisor of the Checklist Chairperson, has reviewed, approved and signed the petition.

The Board noted that RSA 675:4 states the planning board must hold a public hearing by January 23rd to meet the requirements to have this petition placed on the March ballot.

MOTION: Mrs. George motioned to hold a public hearing, in accordance with RSA 675:4, on the proposed commercial district to be located on Routes 108/107 and 107 (Main Street and Depot Road), on January 15, 1998 at 8:15 p.m. Mrs. Fillio second. The motion passed 5-0.

The Board then discussed public notification of this proposal. The Board recollected complaints received by previous proposed commercial district residents on North Road, which stated they felt they were not satisfactorily notified. Although the Board recognized its notification obligation outlined in RSA 675:4, it agreed to forward public hearing notices to all property owners located within the newly proposed commercial district as well as direct abutters to this proposed zone.

The Board also noted that the result of the January 15th public hearing states whether or not the Planning Board supports the proposal, which will be indicated on the ballot.

MOTION: Mrs. George motioned that the Planning Board send public notification of the public hearing for the newly proposed commercial district submitted by citizen petition, to the landowners whose property lies within the proposed commercial zone and to the land owners whose property directly abuts the proposed commercial zone. Mr. Day second. The motion passed 5-0.

Future Land Use Chapter: Mrs. Campbell submitted the contract for the RPC assistance in writing the Future Land Use Chapter of the Master Plan. It was noted that upon the signing of the contract \$3,000.00 is due and the remaining \$600.00 will be due in 1998.

Wayne Ewald Subdivision/Lot Line Adjustment Proposal – North & Stumpfield Road – Public Hearing: Chairman Smith opened the public hearing for Wayne Ewald's proposal to subdivide MBL# 15-04-02 into three parcels and consolidate the remaining acreage with MBL# 14-03-12, by abandoning lot lines. It was noted that three lots would be subdivided to create three new lots.

The Board reviewed a new plan submitted by LLS Walter Zwearcan. The plan reflected modifications made to a 50-ft right-of-way located on MBL# 15-04-12. The Board also reviewed the preliminary discussion minutes of this proposal dated 11/20/97. It was noted that driveways to both MBL#'s 15-04-02 and 15-04-11 would be accessed on Stumpfield Road.

The Board stated that the driveway drainage is a concern and recommended the road agent be notified prior to the issuance of driveway permits to those specific lots.

At this time Mr. James Nupp and Mr. Alan Resnick expressed their concern of the 50-ft right-of-way located on North Road, MBL# 15-04-12. They explained that there are traffic safety concerns when the tractor and hay trailer enters and exits the r.o.w. Mr. Nupp continued to say that a road sign located at the entrance of the r.o.w. makes the tractor and trailer's maneuvering in and out of the field even more of a traffic problem.

Mr. Ewald responded that he left the 50-ft easement as access to the hayfield v. encumbering the cost of having a chain link fence and stone wall knocked down. He stated that it is just an access, not to be a driveway.

Mr. Nupp reiterated his position on the potential traffic hazard of having the hayfield's access on North Road. He stated that the access is located at a blind spot on the road.

At Mr. Nupp's inquiry the Board stated that the State would be notified if the 50-ft access were to be used as a driveway.

MOTION: Mrs. Fillio in accordance with RSA 676:4, motioned to accept jurisdiction on the subdivision/lot line adjustment proposals for Wayne Ewald located on North and Stumpfield Road and Tilton Lane, MBL#'s 15-04-02, 14-03-04 and 14-03-12. Mr. Day second. The motion passed 5-0.

MOTION: Mr. Day motioned to approve the plan for subdivision/lot line adjustment to MBL#'s 15-04-02, 14-03-04 and 14-03-12 as presented conditional on the setting of six concrete boundary markers. Mrs. Fillio second. The motion passed 5-0.

Mr. Zwan was then instructed to submit the mylar and four prints to the selectmen's office. The Building Inspector will inspect the concrete bounds prior to the signing and recording of the mylar.

Proposed Zoning, Subdivision, Site Plan Review Amendments, and CIP – Public Hearing: Chairman Smith opened the public hearing on the proposed Zoning, Subdivision, Site Plan Review Amendments, and the Capital Improvements at 8:20 p.m.

The Board reviewed and acted on the following proposed amendments:

GROWTH CONTROL ORDINANCE: (see attached) The board noted two outstanding issues remaining on the GCO as the carry-over provision and the expiration.

The Board discussed the Sunset Clause which states that the GCO expires at the 2001 Town Meeting unless the Planning Board feels that the ordinance is no longer appropriate in relation to the town's population and growth and amends it.

Discussion entailed about an annual review of the GCO. It was noted that the GCO could be amended to allow the Planning Board to end the ordinance or recommend its continuation and give it a life of no more than three years.

It was noted that creating a 3-year window makes the board vulnerable to litigation. Writing the ordinance for a one year term may eliminate the carry-over.

It was stated that any 1997 leftover building permits requested in 1998 should be recognized as demand for 1998 and not 1997. This concept was argued that eliminating the carry-over does not allow for the actual growth rate of the town.

Mr. Clark stated that out of fifteen building permits allowed for in 1997, only 3 are left, with 1 possibly spoken for.

The Board agreed to keep the no carry-over provision as presented in the GCO.

Mrs. Campbell recommended the Board amend the sunset clause to clarify the intent.

MOTION: Mrs. George in accordance with RSA 675:3, motioned to place the Growth Control Ordinance on the March Town Ballot with amendments to E. Sunset Clause. It will read as follows:

This article expires at Town Meeting 2001.

The Planning Board shall hold an annual review to determine if the population and growth data, in conjunction with the CIP, justifies the continued application of the ordinance. After the review, the Board shall make recommendations to the local legislative body in accordance with RSA 675:3.

Mrs. Fillio second. With no comments from the public, the motion passed 5-0.

Mrs. George motioned to place the Growth Control Ordinance (as amended above) on the March 1998 ballot. Mrs. Fillio second. The motion passed 5-0.

ARTICLE V. by adding the following:

E. Aircraft take offs and landings on private land shall not be a valid and permitted accessory use and are specifically proscribed by this ordinance.

At Mr. Nupp's inquiry, Mr. Nigrello explained the Planning Board's concerns with aircraft landings in Brentwood. He further expounded that state law says unless a specific ordinance is adopted, anyone can set up a take off/landing strip anywhere. The intent of this amendment is to prevent another Brentwood situation.

Mr. Nupp stated that although he understands the intent of the Board, the town already has two or three strips. He asked where the restrictions end. There are water planes on the Powwow, are they restricted also?

Mrs. George suggested the Board restrict the airstrips to specific lot sizes.

Board members stated that because East Kingston is growing and becoming more populated, the town ordinance should address this issue. It was noted that if an ordinance does not mention or set restrictions to a specific issue, the issue is viewed by the state as a permitted use.

Further discussion noted that the town should be able to regulate airstrips whether they are allowed or not. Existing airstrips would be considered "grandfathered" to any future restrictions. The Powwow Pond is controlled by the state. The Board considered creating a special exception to the ordinance allowing airstrips under special circumstances, which would be outlined in the ordinance.

The issue of a noise ordinance was brought up. It was questioned whether the town's noise ordinance would cover noise generated from small private aircraft.

MOTION: Mr. Nigrello motioned to table the amendment to Article V, prohibiting airstrips until the Board can study and bring up a more specific ordinance at a later date. Mrs. Fillio second. The motion passed 5-0.

ARTICLE IV.D.6 – Change "100" to "75" and "125" for the purpose of consistency in articles IV.D.6 and IV.7.B

MOTION: Mr. Day motioned to amend Article VI.6.D to read:

Septic system leach field boundaries shall be located at least 20 feet from any property boundary, 100 feet from any surface water (amended 3/97), 75 feet from existing or proposed private wells, 125 feet from existing or proposed community wells.

Mrs. George second. The motion passed 5-0.

MOTION: Mrs. George motioned to place the amendment to Article VI.D.6 (as amended above) on the March 1998 ballot. Mrs. Fillio second. The motion passed 5-0.

SUBDIVISION REGULATIONS – The Board reviewed all proposed amendments to the subdivision regulations.

MOTION: Mr. Day motioned to approve the following amendments to the Subdivision Regulations in accordance with RSA 675:6:

1. Amend Section VII by updating the reference to the Flood Boundary and Floodway maps from "February 28, 1975" to "04-02-86";
2. Amend Section IV by adding a setback for driveways from lot lines after the first sentence:

Driveways shall be set back at least ten feet from abutting property lines.

3. Amend Section XII.B. (Procedure...)(page 13) to reflect changes to RSA 676:4,I,(c)(1). To read as follows:

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"...The board shall render a decision on the application within 90 days of receipt of the completed application by the board or its designee. If the planning board finds the application to be incomplete, written notification will be provided to the owner within the 90-day period.

Preapplication review phases (per RSA 676:4,II') may be undertaken by the applicant and are encouraged."

Mrs. Fillio second. The motion passed 5-0.

SITE PLAN REVIEW – The Board reviewed the proposed amendments to the Site Plan Review Regulations.

Mr. Charles Marden stated that he contacted the towns of Exeter, Portsmouth and Newton and was informed by their building inspectors that unless there are major parking changes, or major changes in use, they (town management) do not care about the change of tenants in their commercial and industrial zones.

The Board stated that rather than define the term "major changes", the Board requests that the landowner notify the Planning Board in writing of any change of tenant and change of use, thus allowing the Planning Board to determine whether a site plan review is necessary.

Changes of tenants without the change of use will not be required to have a full site plan review. The Board gave several examples of situations in which site plan reviews would be and would not be necessary.

MOTION: Mr. Day motioned to accept the following amendments to the Site Plan Review Regulations:

1. Amend I. Authority by adding before the last sentence:

All changes and expansions of use — including change of tenant s—require written notification to the Planning Board (or its designee), who will determine whether the proposal shall be required to undergo the full Site Plan Review and public hearing processes. The Board shall have the authority to waive any of the requirements herein if justification is shown; and

Amend the Site Plan Procedures A. Introduction paragraph 1, by replacing it with the following:

All changes and expansions of use – including change of tenants – require written notification to the Planning Board (or its designee), who will determine whether the proposal shall be required to undergo the full Site Plan Review and public hearing processes.

2. Amend III. Procedures by adding "and XII" in the first sentence. New text will read:

Site Plan Review shall be conducted in accordance with the procedural requirements contained in the East Kingston Subdivision Regulations, Articles III and XII..."

Mrs. George second. The motion passed 5-0.

CAPITAL IMPROVEMENTS PROGRAM – The CIP was presented with corrections and amendments made at the December 2, 1997 Planning Board Work Session. It was noted that Mr. Day will present Table 11 to the Selectmen for the purpose of budget preparation. The Board reviewed the CIP. (See attached.)

MOTION: Mrs. Fillio motioned to adopt the Capital Improvements Program as presented as an updated and true version.

Mrs. George second. The motion passed 5-0.

FLUAC–Kennerly Property Update: Mr. Day informed the Board that the executor of the Kennerly estate had signed a sales and purchase agreement with the town in the amount of \$265,000.00. The FLUAC has put a petition together to request a Special Town Meeting. Town Counsel attempted to approach the courts for permission to hold a special town meeting. Counsel was informed that the earliest this issue can be placed on the Judge's agenda is January 2, 1998. That would mean the earliest a special town meeting could be held is February 7, 1998.

Mr. Day continued to say that one of two things could happen:

1. The Judge could argue that we must wait for Town Meeting, one month away, or

2. The executor of the estate will not want to wait one more month and sell to someone else.

He added that the appraised value of the property has been estimated from \$250,000 to \$400,00. The Town is currently taxing the property at a market value of \$277,000. The petition is for \$275,000 taking into account legal, closing, and environmental site costs.

Mr. Rowell inquired as to how the FLUAC felt so driven to pursue Special Town Meeting when Annual Town Meeting is so close. He argued that if the executor of the Kennerly estate were pressuring the Town to hurry up via Special Town Meeting, because he already had other buyers, he (executor) would have never signed a sales and purchase agreement in the first place.

Members of the Planning Board expressed their concern with the costs of pursuing and obtaining permission for a Special Town Meeting.

E. Michael Young, Jr. Update: The Board was informed that the Young's have submitted an application for Appeal From Administrative Decision to the Zoning Board. Board members requested they be notified of the date and time of this hearing.

Goals Chapter: The Board expressed their desire to encourage resident participation in the writing of the Goals Chapter of the Master Plan.

MOTION: Mrs. George motioned the Planning Board hold a public forum on January 15, 1998 at 7 p.m. at the Town Hall for the purpose of obtaining input from East Kingston residents in writing the Goals Chapter of the Master Plan. Mr. Day second. The motion passed 5-0.

It was noted that public notice for this forum would be placed at the Town Offices, the Post Office, Jewett's, Joe's Diner, The EK Newsletter, Carriage Towne News and the Exeter Newsletter.

MOTION: Mr. Nigrello motioned to adjourn. Mrs. Fillio second. The motion passed 5-0 and this December 18, 1997 public planning board meeting ended at 9:50 p.m.

Respectfully submitted,

Catherine Belcher
Secretary
Minutes completed and on file December 22, 1997.