



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

*2003-2004:
James Roby Day, Jr., Chairman
Richard A. Smith, Sr., Vice Chairman*

MINUTES

(Regular Meeting and Public Hearings of 18 December 2003)

AGENDA:

7:00PM- **Board Business**

7:10PM- **Public Hearing** for Zoning Ordinance ARTICLE XIII – GROWTH CONTROL decision to keep ordinance in force through 2004 in view of findings of fact and deliberations by the Planning Board on 6 November 2003

7:15PM- **Public Hearing** for Planning Board proposed Zoning Ordinance changes to ARTICLE II – DEFINITIONS, ARTICLE IX- LOT AREA AND YARD REQUIREMENTS, ARTICLE XII- ELDERLY HOUSING, and ARTICLE XIII- GROWTH CONTROL

7:30PM- **Public Hearing** for Planning Board proposed Subdivision Regulations change to SECTION VII, Paragraph P.

7:45PM- **Continued Public Hearing** for a proposed elderly housing site plan of Messrs. Scapicchio/Mower, MBLs 13-3-1 & 14-4-24, involving 41 elderly housing units with a community center (PB#03-OF)

8:35PM- **Public Hearing** for a proposed 2-lot subdivision of Joann E. Brandt, 41 Burnt Swamp Road, involving MBL 10-5-1 (PB#03-13)

9:05PM- **Public Hearing** for a proposed elderly housing site plan of Glenn J. Tebo, MBLs 6-2-10 & 6-2-17, involving 4 duplex and 3 single units with a community center (PB#03-OH)

10:00PM- **Adjournment**

CALL TO ORDER: Chairman Day called the regular meeting of the East Kingston Planning Board to order at 7:00PM, and noted he would take notes from which to prepare minutes.

ROLL CALL: Mr. Day called the roll.

Members present – Mrs. CE Belcher, Chairman JR Day, Vice Chairman RA Smith, Sr.

Members absent – Dr. RA Marston, DVM and Mr. JL Fillio, ex-officio

Alternate members present – Mr. JD Burton and Mr. EV Madej

Advisors present – Ms. Maura S. Carriel, Rockingham Planning Commission (RPC) Senior Planner

Mr. LK Smith, Chairman, East Kingston Conservation Commission Chairman

Fire Capt. Andrew Conti, East Kingston Fire Department

Mr. Kory J. Skalecki, East Kingston Building Inspector

Voting member - Mr. Day noted that December is an even month, and that Mr. Madej shall act as a voting member in the event a member must step down, barring other considerations.

BOARD BUSINESS:

Minutes-

MOTION: Mr. Smith **MOVED** the minutes of the 20 November 2003 regular meeting be approved. Mrs. Belcher seconded. Mr. Burton suggested a correction to his query regarding the Town's authority to require private emergency access roads. Mr. Day noted the correction, and the motion to approve as corrected carried unanimously.

Dr. Marston joined the meeting in progress. Everyone cheered.

Notes & Asides-

Hammond Organ. Mr. Day posed the question, "Who owns the Hammond organ in the East Kingston church?" Mr. Smith knew, but wasn't telling. Mr. Day noted that in 1950, the Town voted at a Town Meeting to spend up to \$575 for a Hammond organ to be placed in the church. The Town owns the organ, if it is still there.

Reading file. Mrs. Belcher returned the reading file for others to peruse.

Correspondence-

Granite State Cover Corporation tenant. Correspondence from Mr. Paul Masone of *Granite State* was discussed, and Mrs. Belcher expressed a desire to better understand the nature of the proposed business. She noted that the product to be handled and distributed was unknown to her. The Board agreed to ask Mr. Masone to present the prospective tenant at the 15 January 2004 regular meeting at 7:30PM for an interview.

Tri-C Manufacturing Co., Inc. Mr. Day noted that Mr. George Chauncey of *Tri-C Manufacturing Co., Inc.*, will attend the 15 January 2004 meeting at 7:15PM to discuss the temporary trailer at 33 Haverhill Road.

Zoning Ordinance changes. Mr. LK Smith and Ms. Carriel discussed the changes Mr. Smith had suggested for several ordinances involving corrections to State-level organization names. It was agreed the changes are administrative, and would not require a public hearing.

Mr. Day noted that the Board of Selectmen had received a citizens' petition for an ordinance change recommendation, had ascertained there were sufficient numbers of registered voters on its list, and had suggested the Planning Board hold a public hearing in January 2004. He suggested the hearing be scheduled for 7:45PM, 15 January 2004, and the Board agreed to reserve 45 minutes for comment. It was also noted that the Planning Board is required to make a recommendation regarding the petition as it would be presented to the voters.

PUBLIC HEARING FOR ZONING ORDINANCE ARTICLE XIII – GROWTH CONTROL ANNUAL REVIEW.

Findings of fact the Board had reviewed and discussed at the 6 November 2003 meeting were presented. Mr. Day noted that by several significant measures, e.g. population growth, housing stock growth, tax burden increase, East Kingston had outstripped its municipal neighbors by a large margin since 1990, and dramatically so in the last several years. Measurable effects are evident in today's costs to support police and road maintenance services, and these increased costs are reflected by projects in the Town's Capital Improvements Program.

Therefore, in accordance with the review requirements of ARTICLE XIII, the Board concluded the Town's interests would be best served by continuing the ordinance in force through the year 2004, and leaving the percentage used to calculate the number of available building permits unchanged.

Mr. Day opened the floor for public comment.

Matthew B. Dworman, 36 Pheasant Run. Selectman Dworman expressed his concern that the Town was experiencing too much growth, attributing much of it to the recent proliferation of elderly housing developments.

Mr. Robert E. Moore, 38 Andrews Lane. Mr. Moore observed that most of the development of late appears to be in elderly housing, and wondered if because conventional, residential construction is governed by growth control, the growth in elderly housing is simply a trade-off as just another form of development.

Mrs. Belcher responded by noting that the Planning Board had sought an innovative way to direct growth, given the limited effective power to control that is inherent in any growth control ordinance. She observed that neighboring towns are also challenged in this respect, and the Planning Board's conclusion was that this innovative land use mechanism was a straight-forward way to minimize the growing impact on the largest part of our tax bill → the school systems.

Mrs. Belcher further exclaimed that she disagreed with the perception that these senior adult residents would vote uniformly against any school issue, observing that most are probably affluent, and grandparents as well, who want the best for their grandchildren. It is more likely they would vote FOR school expenditures.

Mr. Day clarified that for East Kingston to write an innovative land use ordinance such as the elderly housing ordinance, there are statutory *quid pro quos*, and in this instance, age discrimination is permitted by federal statute only if there are no growth controls applied.

Mr. Edwin F. Crosby, 137 South Road. Mr. Crosby expressed his concerns in regard to growth in East Kingston that mirrored much that had been said.

Mr. Day closed the floor to public comment.

MOTION: Mr. Madej **MOVED** the Planning Board retain the Growth Control ordinance through the year 2004. Mrs. Belcher seconded, and the motion carried.

MOTION: Mr. Smith **MOVED** the Planning Board leave unchanged the percentage of residential housing used to calculate the number of residential building permits authorized for the year 2004. Dr. Marston seconded, and the motion carried.

Mrs. Belcher noted that, because it was Mr. Filio, ex-officio, who was absent, neither of the alternate members could vote in his stead. Agreeing that it was an oversight, Mr. Day asked for a re-vote on the original question.

MOTION: Mr. Smith **MOVED** the Planning Board retain the Growth Control ordinance through the year 2004. Mrs. Belcher seconded, and the motion carried.

Mr. Day closed the public hearing.

PUBLIC HEARING FOR ZONING ORDINANCE CHANGE RECOMMENDATIONS AFFECTING ARTICLES II, IX, XII, AND XIII.

The hearing was opened by Mr. Day who noted that Town Counsel had reviewed the proposed amendments, and found them acceptable for placing on the ballot as warrant articles for Town Meeting 2004. He then proceeded to describe each change recommendation thusly:

ARTICLE II – DEFINITIONS. The Board recommends definitions for “frontage” and “unit” be added. In the first instance, the Board holds that a landowner should not be penalized if new lot frontage is created by virtue of someone else’s development. In the second instance, the term “unit” is used throughout the ordinances and regulations without a clear description of its meaning.

ARTICLE IX – LOT AREA AND YARD REQUIREMENTS. The Board seeks to clarify that the restriction on the number of residential units on a piece of property apply specifically in the paragraph in question to the residential zone, and not necessarily to the commercial and light industrial zones.

ARTICLE XII – ELDERLY HOUSING. The Board seeks to clarify the ordinance intent that any elderly housing residential unit be of no more than 1,500 square feet in total living space, and provide an ordinance-specific definition for the term “unit”.

ARTICLE XIII – GROWTH CONTROL. The Board seeks to clarify the ordinance intent that unused building permits at the end of the calendar year shall expire. Clarification is also recommended for the mechanism of the Board’s annual review of the ordinance’s currency, and the consequent adjustment for calculating the new year’s number of building permits that will be made available.

Mr. Day opened the floor for public comment, of which there was none.

MOTION: Mrs. Belcher **MOVED** the Planning Board prepare Town Meeting 2004 warrant articles for the five proposed changes as presented in this hearing and the 19 June 2003 hearing. Dr. Marston seconded, and the motion carried.

The Board members signed the change recommendation cover sheet for delivery to the Town Clerk., and Mr. Day closed the public hearing.

PUBLIC HEARING FOR A SUBDIVISION REGULATIONS CHANGE RECOMMENDATION AFFECTING SECTION VII.

The hearing was opened with Mr. Day giving a description of the proposed change. It amounts to a clarification of every applicant's responsibility to discharge fees and expenses incurred in the progress of a land use application. Typical sources of fees and expenses are identified to remove any doubt that the Town will not bear the burden of expenses imposed by the activities of outside agencies in pursuit of private matters.

Mr. Day opened the floor for public comment, of which there was none.

MOTION: Mr. Smith **MOVED** the Planning Board incorporate the recommended change to SECTION VII of the Subdivision Regulations as it was presented in this hearing. Dr. Marston seconded, and the motion carried.

The Board members signed the change recommendation cover sheet for delivery to the Town Clerk, and Mr. Day closed the public hearing.

CONTINUED PUBLIC HEARING FOR A PROPOSED 41-UNIT ELDERLY HOUSING SITE PLAN WITH A COMMUNITY CENTER OF MESSRS. SCAPICCHIO & MOWER INVOLVING MBLs 13-3-1 & 14-4-24(PB#03-OF).

The hearing was opened by Mr. Day, noting that it appeared the proceedings were to be video-taped by agents of the Manchester law firm of *Devine Millimet*, as had been requested by Ms. Susan Duprey.

For the applicant: Mr. William Gregsak, P.E. Mr. Gregsak asked the Board's indulgence for him to set up a multi-media presentation. After conceding to an untimely failure in electronic technology, Mr. Gregsak reverted to discourse with the Board. He was asked what it was he hoped to accomplish in the course of this hearing. Mr. Gregsak stated that his first priority was to obtain the Board's approval for the waiver request regarding Subdivision Regulation Section VII.D., referring to his proposed cul-de-sac length of 2100+ feet.

Mr. Day noted that the Board acknowledges Mr. Gregsak's request for a waiver, but that nothing with regard to this application can ultimately go forward without, firstly, concluding the initial lot line adjustment (LLA) of the Scapicchio/Mower properties approved in May 2003. Mr. Gregsak suggested that perhaps recording the LLA at the Registry of Deeds would be agreed to by the owner(s) if there was a higher level of confidence that the elderly housing plan can go forward. The Board's granting a waiver for the cul-de-sac length could be such a confidence builder. Mr. Day expressed his opinion that granting a waiver does not guarantee anything.

Discussion ensued wherein the Board noted the Town Engineer's review and comments, the applicant's three waiver requests to date, and the absence of much pertinent information. It was noted that there has yet been a traffic study presented, and the Board's present information is that none of the State permits which are known to be required have been applied for.

Mr. Smith observed that, given the provision for an emergency access road which will conform to the Town's construction standards and needs, and which will connect to an existing road, there is no need for a cul-de-sac length waiver in the first place. The road and emergency access constitute a through-road from East Road to Andrews Lane.

Ms. Carriel suggested that, before the Board consider granting a waiver, the provisions of Subdivision Regulations Section XV be reviewed. Mr. Day read the four considerations for all to understand.

Mrs. Belcher stated that the Board had considered the emergency access road to be an acceptable solution to the question of the cul-de-sac length. She felt that the solution was creative in its being able to address the question of emergency vehicle access, as well as avoiding additional traffic on Andrews Lane so close to the elementary school.

Mr. Day asked the Board if it was prepared to consider the applicant's waiver request.

Unrecognized, and before a butter comment was solicited, Ms. Susan Duprey of *Devine Millimet* interjected that she objected to the Board's willingness to proceed in what appeared to be a piecemeal fashion. She identified herself as representing Hoggs Hill Limited, an abutter to the owner/applicant, and expressed her opinions which included:

- 1- the proposed detention ponds overlapped proposed roads and community well radii,
- 2- the community wells were incorrectly placed,
- 3- the proposal to cut through terrain would make landscaping impossible by virtue of lot boundary proximity,
- 4- the Andrews Lane connection should at least require a special exception caveat,
- 5- the emergency access road would cross and disturb a great deal of wetlands,
- 6- she believed her firm had obtained every bit of paper in the Town's files obtaining to this application, and there did not appear to be an applicant's written request for the waiver presently under consideration,
- 7- the piecemeal approach to review and approve that the Board appears to prefer can only result in a less than satisfactory final plan.

Ms. Carriel noted that the Board has long had a written waiver request for the cul-de-sac length, and the Board acknowledged that it had been one of the first points of discussion.

Mr. Day solicited further public comment from abutters on the question presently before the Board.

Ms. Marilyn (Berridge) Bott, 129 South Road. Ms. Bott expressed her concern that public safety may not be of sufficient concern in this matter. She also noted that the Town had had experience in the past with a piecemeal approval approach, citing the Brandywine development.

Discussion ensued, with clarification being eventually made that the developer for this application, *MDR Corporation*, was in fact the firm which was able to complete the Brandywine cluster housing development project in a manner which satisfied the Town when the original developer failed to do so.

Mr. James L. Nupp, 35 North Road. Mr. Nupp noted his long list of concerns, and was concerned about granting a waiver at this point in the process.

Mr. Robert E. Moore, 38 Andrews Lane. Mr. Moore asked about the approval process of such a plan. Mr. Day explained how he understood it, and how the Board has chosen to function in the past. He noted that the Board is statutorily required to reach a decision for an application within 65 days after taking jurisdiction. There is allowance for an applicant to request extensions, and in theory, a plan review could go on indefinitely. In the Board's recent experience, similar applications have taken as much as two years, undergoing a protracted, iterative process of plan revision.

Mr. Day stated that, regardless of the Board's granting incremental approvals in the form of waivers, if at the end of the day, the plan does not meet the Board's expectations, and fits with the East Kingston Zoning Ordinances, Subdivision and Site Plan Regulations, the plan cannot be approved.

Mr. Day closed the hearing to abutter comment.

Mrs. Belcher observed that the Board had been informed by NHDOT that East Kingston would be fully involved in the State's approval process for any roadway intersection permit. She noted that DOT has yet to receive any such permit application, and indicated that the East Kingston Police Department had provided DOT with its input, together with its own accident history record for the area of East Road in question. Mrs. Belcher stated that she wants to see the State's opinion on a permit application before she draws any firm conclusions.

Mr. Gregsak referred to the site walk that was conducted in the Fall 2003 for the benefit of the Board and abutters. He expressed his opinion that for those who had attended, it was made apparent that proper sight distances could be achieved by proper terrain clearing to satisfy the State requirements. He repeated his belief that resolving the cul-de-sac question was the key to moving forward with the application.

Mrs. Belcher stated with regard to the road intersection permit, a great number of questions remained open as to how safety questions will be answered. For example, should there be acceleration/deceleration lanes included, and how will such modifications to East Road itself affect traffic on East Road, and the people who live there.

Mr. Burton suggested that any waiver language we might consider must be carefully crafted, clearly describing what is being waived. He noted that the waiver request only addresses the length of the cul-de-sac, yet the waiver would be based on there being an emergency access road.

To Mr. Gregsak's renewed urging for granting a waiver, Ms. Carriel noted that the Planning Board has already said that the cul-de-sac length, together with the emergency access road, would be an acceptable solution. Yet, there is a need for a traffic study, and the Board may find additional information is necessary for a decision.

Mr. Gregsak indicated that he did have some traffic impact information to present, but it was to have been a part of his electronic multi-media presentation. He stated that the information he has indicates that the proposed development would generate about 150 vehicle trips per day, and his understanding is that that is less than half of what is normally expected from conventional residential development.

Mr. Day suggested that, in light of the volume of missing data, permits, etc., that the applicant might do best to request a 60 day extension. He addressed a letter the Board had received from the Chairman of the East Kingston Conservation Commission, and asked Chairman LK Smith to describe its contents. Mr. Smith read the letter verbatim, the thrust of which was that the plan's present configuration of community wells, their radii, and two detention ponds violate State regulation. He stated that such errors in design warrant a complete re-design. He further noted that the State informed him that the applicant has yet to submit a Dredge and Fill permit application, and that the State's review of such permits is rather lengthy and protracted.

After Mr. Day repeated his concern about his own "laundry list" of problems and missing information, Ms. Carriel expressed her concern that there appears to be little substantive progress toward plan revision or obtaining the required permits. She noted that it has already been two months since the Board reviewed any revised materials from the applicant, and it is not very considerate of the abutters to inconvenience them in this manner. Ms. Carriel thought a 60-day continuance would be a good idea to afford the applicant time to make measurable progress in obtaining permits and completing assorted studies.

Mr. Gregsak requested the Planning Board grant a 60 continuance for the Apple Hill Adult Community application.

Mr. LK Smith suggested that the NH Wetlands Bureau is not likely to react even within 60 days.

Ms. Carriel reminded the assembled that the applicant had agreed to notifying abutters when tests to the community wells would be conducted. She felt it important that abutters be aware and able to monitor their own wells. Mr. Gregsak confirmed that before any test would be conducted, abutters would be notified.

Mr. Day opened the hearing for abutter comment.

Mr. Robert E. Moore, 38 Andrews Lane. Mr. Moore noted that he had attended the site walk in the Fall, and he felt what he saw at the East Road intersection did not reassure him that it would be safe.

Ms. Margaret Caulk, 69 South Road. Ms. Caulk repeated Mr. Moore's concerns.

Mr. Paul W. Bernier, 60 East Road. Mr. Bernier expressed his concern for safety. He noted that there have been many accidents on East Road in the vicinity of the proposed roadway intersection, and any additional traffic would exacerbate an already dangerous condition.

Marilyn (Berridge) Bott, 129 South Road. Ms. Bott's criticism focused on the use of community wells, and that given how they are to be placed, they would not qualify as community wells.

Mr. Charles F. Grant, 43 East Road. Mr. Grant observed that school buses stop all along that stretch of East Road, and there will inevitably be conflict with any additional traffic, and traffic turning into, or out from, the proposed development.

Ms. Susan Duprey, Devine Milliment, Manchester. Ms. Duprey offered a letter from her firm, under her signature, which addresses her concerns with regard to drainage, community water systems, landscaping,

condominium documents, written waiver requests from the applicant, lot and density calculations, and procedural steps the Board might take. She noted that she had spoken with NH DES regarding community wells, and was informed that such wells' protective radii cannot be crossed by roads. She expressly requested to see a landscaping plan.

Mr. Day asked that a copy of Ms. Duprey's letter be made available to Mr. Gregsak, and suggested that, if Ms. Duprey's comments were to be what was already contained in her letter, she could rest assured that the Board would take her points into consideration without her having to address them any further at this late hour.

Mr. Day closed the hearing to abutter comment.

Discussion ensued about what the Board proposed to do with the application. Mrs. Belcher observed that there is a great deal of information not yet available, and we must have it before any further consideration be given.

MOTION: Mr. Smith **MOVED** the Planning Board continue the public hearing for the proposed elderly housing site plan of Messrs. Scapicchio/Mower, MBLs 13-3-1 & 14-4-24, involving 41 elderly housing units with a community center (PB#03-OF), until 19 February 2004 at 8:30PM. Dr. Marston seconded, and the motion carried unanimously.

Mr. Day closed the public hearing.

PUBLIC HEARING FOR A PROPOSED 2-LOT SUBDIVISION OF JOANNE BRANDT, 41 BURNT SWAMP ROAD, INVOLVING MBL 10-5-1 (PB#03-13).

Mr. Day opened the hearing by referring briefly to the materials the Board had in its possession.

For the applicant, Mr. Dennis G. Quintal, P.E. Mr. Quintal described the plan before the Board as the subdivision of MBL 10-5-1, a 9.39 acre parcel, into two parcels of 7.37 and 2.02 acres each. He noted that the applicant was requesting two waivers, one regarding Subdivision Regulation Section VII.F., which requires each newly created lot to have its own driveway onto a State or Town road, and the other regarding Subdivision Regulation Section VII.S., which requires every proposed structure be within 1,200 feet of a source of fire suppression water, be it a cistern or a fire pond.

Mr. Quintal suggested that, in the first instance, requiring a new driveway would necessitate the removal of a line of trees, vegetation, and terrain which provide a buffer for the existing house from traffic noise and light. In the second instance, the requirement for a 30,000 gallon cistern would be an extraordinary financial burden on the applicant, and there is precedence for granting such a waiver. Mr. Quintal cited a 2-lot subdivision on Stumpfield Road of recent history he himself presented to the Board which involved the creation of one building lot, and for which the Board granted a waiver with the caveat that any further subdivision would require provision for a fire cistern or pond.

Mr. Day responded by stating that economic concerns of an applicant cannot be considered as factors for the Board to consider waivers, and referred to Ms. Carriel's Senior Planner memorandum of 4 December 2003. He suggested that the Board review her comments before deciding whether to take jurisdiction for the plan. A comment-by-comment review ensued with comments #4 and 5 noted to be addressed by the waiver requests.

Ms. Carriel indicated she would defer to Mr. LK Smith for comment regarding any soils questions. Mr. Smith noted that the soils information provided with the plan were sufficient.

MOTION: Mrs. Belcher **MOVED** the Planning Board accept jurisdiction for the 2-lot subdivision of Ms. Joann E. Brandt, 41 Burnt Swamp Road, MBL 10-5-1 (PB#03-13). Mr. Smith seconded, and the motion carried unanimously.

Discussion ensued about the cistern waiver request. Dr. Marston observed that the fire suppression water supply question must be addressed by the Fire Department for input to the Board. When asked, Fire Capt. Conti noted that the department has the plans for their review.

Mrs. Belcher indicated she believed the driveway waiver request did not meet the standards for granting a waiver as noted in the regulation. She further observed that, although the present arrangement of ownership might be satisfactory to all parties, problems could arise were the property sold to strangers. Shared driveways can be controversial between disagreeing owners and users.

Dr. Marston suggested a driveway be put on the plan, but it need not be used. Mrs. Belcher asked how long a driveway permit is good for, and Mr. Quintal noted that the State would grant access from NH 107A predicated on sight distances and such. He suggested that access could also be obtained from Fish Road, but agreed that permission would have to be obtained from the Town because Fish Road is a Class VI road, and is closed with gates and bars.

Mr. Smith suggested a driveway permit be obtained from the State. With the driveway location shown on the plan, the applicant can then choose whether to use it or not, and any future owner would also have the option.

Mrs. Belcher noted that the proposed MBL on the plan for the new 2 acre lot is incorrect. Mr. Quintal was advised to correct it with the help of the Administrative Assistant of East Kingston.

Mrs. Belcher enquired further as to whether Green Brook, a water body in close proximity to the property, could serve as a source of fire suppression water. Discussion ensued with questions for the Fire Department to examine with the applicant about stream depth, water volume, and access. Dr. Marston restated his opinion that the Board needs the Fire Department input before taking any decision.

Mr. Day expressed his opinion that he would have a hard time justifying a fire suppression water source waiver in light of the Fire Department's oft times repeated concerns, and the Board's requiring other applicants to provide water sources for subdivisions. He observed that, regardless of who is subdividing what, the end result is the same, to wit: a single buildable, residential parcel becomes two residential parcels. The Board should strive for consistency in answering such questions. Mr. Quintal repeated his assertion that it is a single lot subdivision, with only one additional residence being added.

Mr. Day opened the public hearing for abutter comment, of which there was none.

With the Board's unequivocal opinion that the Fire Department must review the plan and make a recommendation regarding the water source waiver request, Mr. Day suggested Mr. Quintal address the matter to the department. He noted the options regarding the driveway question, and Mr. Quintal said they would consider Fish Road, as well as the Board's concerns.

Mr. Smith stated his opinion that the Board should grant the waiver for a shared driveway, given the busy NH 107A doesn't need another driveway entrance, and require a driveway right-of-way be in the deed for the newly created lot.

Discussion ensued further with a motion suggested by Mr. Smith for a waiver.

MOTION: Mr. Smith MOVED the Planning Board grant a waiver to Joann Brandt from the requirement for a driveway to a new lot created from MBL 10-5-1. Dr. Marston seconded.

Further discussion ensued with Mr. Burton stating that once again we might be setting a bad precedent by waiving a subdivision regulation for which there is a ready solution. He suggested that requiring the driveway permit, regardless of how the property is eventually developed, is a good idea.

Mr. Quintal stated his opinion that this particular situation is unique. The existing trees and vegetation provide a natural buffer which would have to be removed to put in a driveway.

Ms. Carriel asked Mr. Kory Skalecki, Building Inspector, whether a driveway permit is needed in order to issue a building permit. Mr. Skalecki said yes, a permit is required, to ensure access.

Mr. Day called for a vote on the motion, and the motion failed by virtue of deadlock. Dr. Marston and Mr. Smith voted in the affirmative, and Mrs. Belcher and Mr. Day voted against.

Summarizing the status of the application, Mr. Day noted that review and a recommendation from the Fire Department would be needed before a Section VII.S. waiver could be considered, that the applicant should consider a NHDOT driveway permit, or perhaps a Fish Road access, and a proper MBL must be obtained for the newly created lot.

Mr. Quintal acknowledged the issues, and requested the Board grant a continuance.

MOTION: Mrs. Belcher **MOVED** the Planning Board continue the public hearing for the 2-lot subdivision involving MBL 10-5-1 of Joann Brandt until 15 January 2004 at 8:35PM. Dr. Marston seconded, and the motion carried.

Mr. Day closed the public hearing.

PUBLIC HEARING FOR A PROPOSED ELDERLY HOUSING SITE PLAN OF GLENN J. TEBO, INMBLS 6-2-10 & 6-2-17, INVOLVING 4 DUPLEX AND 3 SINGLE UNITS WITH A COMMUNITY CENTER (PB#03-OH).

The hearing was opened by Mr. Day asking Mr. Tebo the status of the LLA related to this application that required the Kingston Planning Board review and approval. Mr. Tebo indicated that he had tried to get onto their agenda, but was told he would have to wait for some time.

Mr. Tebo indicated that he and his engineer were unable to prepare plans in sufficient detail to present for review. He therefore was requesting the Board grant a continuance, and asked what would be the deadline for plan revision submission. Ms. Carriel noted that 21 days before a hearing are necessary, but that would require plan submission not later than 25 December 2003 for the January 2004 regular meeting. She agreed there could be time enough, were the plans in her hands by Monday, 29 December 2003.

MOTION: Mrs. Belcher **MOVED** the Planning Board continue the public hearing for the site plan of Glenn J. Tebo for an elderly housing development involving MBLs 6-2-10 & 6-2-17 until 15 January 2004 at 9:10PM. Dr. Marston seconded, and the motion carried.

Mr. Day opened the hearing for abutter comment.

Mrs. Jeanne N. Furfari, 13 Greystone Road. Mrs. Furfari asked about what was going on, and when she could expect another hearing. Mr. Day explained that Mr. Tebo had been unable to complete revised plans, that he had been unable to confer with the Kingston Planning Board, and if plans can be submitted in time, they would be considered at the January meeting.

Mr. Day closed the hearing for abutter comment.

CONTINUED BOARD BUSINESS:

BOCA. Ms. Carriel presented and discussed a proposed amendment to the Building Code portion of the ordinance. She noted the Building Inspector and she had discussed the change recommendation and agreed on wording for it, to wit:

AMEND BUILDING CODE 1. Title Section 100.1 by deleting the existing language and replacing it with the following:

"1. Title Section 100.1

Any construction, alteration, repair, renovation or maintenance of a building or structure shall comply with the provisions as follows:

- a. The New Hampshire State building code as defined in NH RSA 155-A:1, IV., which includes the International Building Code 2000, the International Plumbing Code 2000, the International Mechanical Code 2000, the International Energy Conservation Code 2000, as published by the International Code Council, and the National Electric Code 2002;
- b. The International Residential Building Code, 2003 Edition and as amended;

- c. The enforcement mechanism for the State building code shall be that which is already in place for the enforcement of the Town Building Code, with the Building Inspector administering and enforcing same. The Zoning Board of Adjustment shall act as the Building Code Board of Appeals."

The Board reviewed the verbiage, and suggested that provision "a" be amended to enable the Town to automatically adopt succeeding revisions of the various codes enumerated as a part of the New Hampshire State building code, without having to go to Town Meeting with a warrant article. Ms. Carriel and Mr. Skalecki agreed to make such a change, and Mr. Day indicated he would forward the recommendation for Counsel review.

MOTION: Mrs. Belcher **MOVED** the Board conduct a public hearing on 15 January 2004 for the proposed change to the East Kingston Building Code. Mr. Smith seconded, and the motion carried.

ADJOURNMENT:

MOTION: Dr. Marston **MOVED** the Board adjourn. Mrs. Belcher seconded, and the motion carried unanimously at 10:31PM.

Respectfully submitted,

James Roby Day
Minutes approved *15 January 2004*