

December 20, 1989

Members present: Richard Smith, Chairman; William DiProfio, Selectman; Kathy George, Robert Marston and Melvin Keddy

Others: Larry Smith, Conservation Comm.; Joe Conti, Building Inspector and Sarah Campbell, Rockingham Planning Commission

Mr. Smith called the meeting to order at 7:37pm.

CORRESPONDENCE

An interoffice memo was received from Mrs. Marden regarding a suggested checklist for subdivisions. The Board will review, revise and make recommendations at the next meeting.

Letter received from NH Committee for Human Rights regarding protection from discrimination in housing. The Board will work with the information at a later date.

Publications from the State Planning Office were distributed.

Received RSA Amendments and NH Earth Removal Laws. These were placed on file for further action at another date.

BOARD BUSINESS Mr. DiProfio stated that the Board of Selectmen has a separate account to receive monies from Impact Fees. There are no funds in this account to date.

It was determined that Hampshire Development has not paid it's Impact Fee and therefore will not be issued any more Building Permits. Two Building Permits have been issued and Mr. Conti advised they are about to lose one permit. The Impact Fee is \$1000. per lot, the total owed is \$ 2000.

The Selectmen will send a bill for the Impact Fee.

It was mentioned that no Building Permits were to be issued until the Impact Fee has been collected effective immediately.

Contracts regarding the Water Study have been signed and will be paid this year as it is part of the 1989 Town Budget. The contract is for \$400.

ZONING ORDINANCE AMENDMENT PROPOSALS Sarah Campbell lead the discussion about proposed changes to the Zoning Ordinance.

The Home Occupation Ordinance to be amended to:

Six preschool and three school age children criteria is met through State regulations and is an easy criteria to meet and Ms. Campbell recommends it not be included in the Home Occupation process.

Removal of criteria for Foster Care completely.

In discussion of site layout for Day Care facilities, Mr. Conti would like the turn-around for vehicles discharging and pickup of children to be adequate to prevent backing up in a manner that could be unsafe for pedestrians or waiting vehicles and backing into a public right-of-way.

The second amendment proposed by Ms. Campbell regarded the Floodplain Development Ordinance. The Board will recommend this as presented.

Mr. DiProffo motioned to post and hold a Public Hearing on the two amendments. The Public Hearing to be held on January 17, 1990 at 8:00pm.

Ms. George second.

The motion passed 5-0.

A complete posting of the approved changes to this Ordinance are attached to these minutes. Mrs. Marden will post these at the Post Office and Town Hall; Ms. Campbell will post these in the newspaper.

EXETER & POWWOW RIVER WATERSHED PROTECTION DISTRICT Larry Smith, Conservation Commission Chairman presented a draft copy of the EPRMPD and outlined the changes from the previous EPRMPD.

Mr. Keddy arrived at this time (8:10pm) and assumed his seat with the Board.

There was much discussion about the changes in buffer figures proposed. Mr. DiProffo stated that he would like to see the boundaries the same in all instances.

Mr. Smith addressed each of the changes and explained the necessity for change in his opinion.

A copy of the Article IX (with the changed figure recorded thereon) is attached to the Master Minutes to be filed with the Planning Board. Copies will not be furnished to each Board member; however they are available upon request of a copy.

Mr. DiProffo motioned to submit this Ordinance for a Public Hearing if paragraph C. 1. "The areas of land within 250 feet horizontal distance of the seasonal high water level of the Powwow River, and major tributaries of the Exeter River. Major tributaries within the Town of East Kingston are defined to be the following: Great Brook (Exeter River)." is changed to:

C. 1. "The areas of land within 125 feet horizontal distance of the seasonal high water level of the Powwow River, and major tributaries of the Exeter River. Major tributaries within the Town of East Kingston are defined to be the following: Great Brook (Exeter River)."

Public Hearing to be held on January 17, 1990 at 8:30pm.

Mr. Keddy second.

The motion passed 4-1. Dr. Marston dissenting.

Mr. Keddy asked why Dr. Marston objected.

Dr. Marston replied that he felt this was taking usage of land away from the owners.

FMR-PUBLIC HEARING CONTINUANCE Mr. DiProfio excused himself from the Board at this time (8:35pm) and remained as an abutter.

Mr. Smith called the Public Hearing continuance to order for FMR at 8:40pm.

Mr. Decker stated that there are six items remaining to be addressed as per the letter from Ms. Campbell and Sanders & McDermott. He noted that items addressed by Ann Thompson were minor in nature and that he just received her letter that was dated December 20, 1989 therefore, he did not have time to make the suggested amendments.

Regarding the Land Sales Disclosure Act, it was suggested by the authority that they file for exemption when the Cluster was approved.

The Site Specific Plan No. is on the plan. WP 13411.

Mr. Decker has agreed to pay for fees for the Attorney's review.

Regarding the issue of Bonding for the water system, it was explained that no lots may be sold without a water system, the contribution for the water system will be Young Bros. and not FMR or East Kingston Estates.

Regarding the issue of Bonding for the road, Mr. Decker requested consideration from the Board to bond the first 1000 ft. with provision, after completion of first 1000 ft., for roll-over for the second 1000 ft.

Mr. Rand addressed the landscape plan in regards to past discussions and letter. He feel they have incorporated these suggestions and have shown the location and types of trees, shrubs, lilacs, (deciduous/evergreen). The staggered layout is shown on the plan.

Larry Smith stated that Dennis Quintal has agreed the difference in flow caused by the reduction in pipe would not have downstream environmental impact and there was no further problem with this.

Larry Smith questioned the steep slopes in the fire pond design. There was discussion about wandering animals/children getting into problems with little chance of escape if wrong estimation of sloping happened.

Mr. Decker and Mr. Rand stated that they would be willing to change the slope immediately entering the pond to a distance 10 feet from the edge of the water.

Mr. Conti asked if the fire pond would be fenced?

Mr. Decker said it would not be fenced as it was part of the recreational area that was commonly owned. It is perceived to be used for ice skating, etc. They stated this was open to the common owners and was private land and it would remain open to the owner's decision.

Larry Smith asked about certification of the inlet with sediment going into the pond. He would like rip-rap 30 ft. on one side and 30-40 ft. on the other side before the inlet going into the pond.

Larry Smith gave Sarah Campbell a copy of Mr. Quintal's concerns.

Mr. Keddy asked what other outstanding issues there were.

Ms. Campbell stated the issue of road bonding for phase 1.

Ms. Campbell stated there was no need to bond the water system.

Richard Smith noted the bond would be \$210,300. The requested half would then be \$105,150.

Ms. Campbell stated the Board would need a written agreement stating the bond only covers Phase I (first half of the road) and will be rolled over at the time of Phase II of the road building.

Ms. Campbell stated the road entrance change was unanswered.

Mr. Decker stated that the State had been contacted and they said "no" to the angle change.

Mr. Decker stated that he will place screening in front of Ms. Whalen's home, however he did not want this to be a part of the condition for approval.

Mr. DiProfio asked what the island was going to look like.

Mr. Decker and Mr. Rand answered it would be a hot top berm with low shrubs. The island is set back 15 ft. from the Route 107 ROW. There is 17 ft. on each side of the berm and the 15 ft. is to accommodate the turning of fire/emergency or other large vehicles.

Richard Smith stated that he doubts the ability of the fire trucks to turn on a 17 ft. clearance.

Mr. Decker and Mr. Rand explained that the entrance was 40 ft. wide off Rte. 107 for 15 ft. and then the lane is 17 ft. wide.

Mr. Decker stated that he will eliminate the island if the State would allow him to do this.

Richard Smith read the letter from Ms. Whalen about her concerns with answers to her questions of the past and asked the Board to continue the hearing.

Mr. Decker and Richard Smith noted that the concerns have already been agreed upon and they saw no further problems with Ms. Whalen.

Ms. Campbell noted that she felt the landscaping was skimpy. She stated she had hoped to see more evergreens on the west side and also to have another row of evergreens behind the lilacs on the east side for winter cover.

Mr. Decker reminded Ms. Campbell and Board members that they had asked for certain details, and now are asking for more. He did not debate this issue and agreed to put in ten more evergreens across the front - five each side.

Ms. Campbell stated they would have to post a bond or letter of credit for \$105,150 prior to signing the plan.

Items to be received prior to signing of plat:

Letter addressing:

Phase I & II.....reference road bond/landscape bond
Ten more trees
Island to be eliminated
Minor editorial changes recommended by Attorney on Articles of Association.

Items agreed:

30-40 ft. of rip-rap
3-1 slope for ten ft. at fire pond

It appears the outstanding bill for review of plans for \$537.00 was paid at the Selectmen's office on November 27, 1989 and is no longer an issue.

Kathy George motioned to grant conditional approval to East Kingston Estates Subdivision plan based on the five conditions listed above.

Mel Keddy second.

The motion passed 5-0.

The Public Hearing for FMR, Inc. was adjourned at 9:30pm.

A Notification of Decision will be sent to FMR, Inc., Sarah Campbell and the Planning Board files noting the five criteria that must be met to get the mylar signed.

F. PAUL JACKSON Mr. F. Paul Jackson was requested to come before the Board this evening to discuss the necessity to have a Site Plan Review of his property on 10 North Road (Frost's Garage site).

2. A letter was received from Dubois & King Engineering firm. Mr. DiProffio will give this to Mr. Andolina.
3. Mr. Smith reported he attended the forum on Impact Fees. He has a copy of the legislation that is proposed. Mr. Smith also had a model copy of the Sandown Impact Fee schedule and Rockingham Planning Commission Impact Fee fact sheet.

IMPACT FEES-NEW DEVELOPMENT & BELL & FLYNN Ms. Campbell inquired if the Impact Fees for New Hampshire Development and Bell & Flynn were being collected and if they were being kept in a separate account. She stated they should be held in a separate account.

Mr. DiProffio will check with the Board of Selectmen to determine if this is happening.

4. Letter from Dept. of Environmental Services - re: FMR, Inc. Ms. Campbell stated this was regarding the Major Alteration Permit required because of the amount of soils that will be disturbed on this site.
5. The letter from FMR has been sent to Ann Thompson.
6. Letter has been received from the Wetlands Board for FMR allowing crossing of a water body - unnamed.
7. Letter from DOT extending the FMR driveway permit to 9-13-90.
8. Received a copy of FMR landscaping plan.

BOARD BUSINESS Mr. DiProffio noted that last Monday, the Board of Selectmen were notified of activity going on at Mr. Jackson's property (formerly Frost's Garage) on North Road. This may constitute a change of use.

Mr. Smith stated that Mr. Jackson had called him and asked to be on tonight's agenda, however, he has contacted his lawyer who advised him not to come, therefore he is not on the agenda.

Mr. DiProffio stated that the Board of Selectmen will send a letter for Site Plan Review regarding a possible moving back to a garage. Mr. DiProffio feels that a variance was granted to have an organ shop and antique furniture refurbishing operation at this site.

The history of the site was discussed by the members and Mr. DiProffio stated that the basis for Site Plan Review exist.

Ms. Campbell said that this (garage) would be a permitted use in the commercial district and feels that this would require a Site Plan Review.

Mr. DiProffio stated the Board of Selectmen will send a letter requesting compliance with Site Plan Review.

Mr. Keddy suggested the Board ask Ann Thompson for an opinion of the Frost Garage (Jackson) situation.

Ms. Campbell advised that this would not be necessary as the regulation is very clear, she advised there is no need for an attorney and to see what Mr. Jackson does first.

EBEN MELVIN BOWLEY Ms. Campbell asked the Board's feeling regarding the Melvin Bowley offer to donate land along the river. She feels this would be beneficial to the Town. Mr. Bowley has asked to have the proper language drafted to preserve the river banks and she is asking to have Ann Thompson help with the wording and review of the document to implement this transaction.

Mr. DiProfo motioned to authorize Sarah Campbell to seek Ann Thompson's legal review of Mr. Bowley's gift.

Mr. Keddy second.

The motion passed 4-0.

PUBLIC HEARING-HOME OCCUPATIONS The Public Hearings for Keri Marshall and Richard Tucker, 47 Depot Road and Catherine Gorman, 24 Andrews Lane were opened at 8:05pm.

Ms. Marshall and Mr. Tucker seek to have a Home Occupation Permit issued to allow them to have a law office in the barn. It will be an "in-home office". They will have one sign (as allowed under the Sign Ordinance) in front of the barn. They will add landscaping and they have a Building Permit. They will be using 23% of the gross floor area. The second floor is incomplete. All building total 7900 sf of which 1810 sf will be devoted to the home occupation. They will begin with one nonresident working there. They are filing for two as allowed by the Ordinance. There will be no commercial vehicles. They have adequate side parking, providing four spaces and a three car garage to house their vehicles.

Mr. DiProfo asked for public comments at this time.

Ms. Andrejewski, Chairman of the Library Trustees expressed concerns on behalf of the Library Trustees. She asked where the barn was in relation to the house and to the driveway off the Library access road. They are concerned with the additional traffic that may be entering/exiting through the road.

Mr. Tucker stated that they will be using the same driveway that is used now.

Ms. Andrejewski stated the concerns with traffic coming through the Library driveway since the driveway comes right near the edge of the street. She suggested restriction of the use of this street by the Home business.

Ms. Rowell asked about the hours of operation; would there be any evening hours.

Ms. Marshall stated there would be mostly daytime appointments, however she would not like to make any committal on the evening hours.

The Library Trustees asked where the excess cars would park if indeed this became the case.

Ms. Marshall stated there was space for excess parking of vehicles next door if that became necessary. She did not feel this would occur.

Ms. Rowell stated that she was concerned with the number of parking spaces and the patrons of the Library, especially the children who would be walking.

Ms. Marshall stated they would be willing to put in additional spaces for parking if necessary.

Mr. DiProfio stated that the permit is reviewed each year and he felt the Board would be hearing about any problems that existed at this time.

Mr. DiProfio stated that speaking as a Selectmen, they have received the missiles regarding the speed bumps from the Library Trustees and they have asked the Town Engineer to look at this section and give a recommendation for a design for safety purposes.

An abutter noted that the only use is for residents and the Library and therefore they saw no need for the opening by the end near the Church. He suggested a barricade be erected allowing residents to go in and out off 107 eliminating the opening nearest the Church.

It was noted that the Damsells own the ROW.

Ms. Marshall asked who plows the road.

Mr. DiProfio stated the Town plows the road.

Ms. Marshall stated they also provided the tar for it.

Abutter, Ms. Worth stated that she has no problem with the law office and she feels that the traffic problem is there for the Library, law office or not.

Mr. DiProfio motioned to grant Ms. Marshall and Mr. Tucker a permit.

Mr. Keddy second.

The motion carried 4-0.

Ms. Catherine Gilman wishes to conduct a Child Day Care Home Occupation at 24 Andrews Lane. She stated that she will erect no sign. Her home dimensions are 24 x 36 ft. and she will use the whole downstairs for her Day Care services. She will care for six children during the day and will have three afterschool children. She stated this is allowable per the State Licensing process.

The Board noted that Ms. Gilman may have only four children as per the East Kingston Home Occupation Ordinance.

Ms. Gilman questioned the ratio rate for four children when the state law is in direct conflict by stating she may have six children.

Mr. DiProfio stated that the figure came from an old Home Occupation process which stated four.

Ms. Gilman persisted in questioning the rationale of four. She asked what the reasoning behind this figure was and stated that the Board should know why they set this figure.

Mr. DiProfio said that if the Board deemed that the Ordinance needs to be rewritten it will be, but at present they have to abide by what was voted by the Town.

Ms. Gilman stated that Foster Care is not a Home Occupation. She stated that she will adhere to the four children stipulation for Day Care, but not for Foster Care. She stated she will not apply for a permit for Foster Care.

Mr. Gilman stated that the Fire Chief and Health Officer have signed the license for six children and he inquired why these rules are conflicting.

Mr. DiProfio again stated that the Ordinance states four children but perhaps the Board will recommend to change this figure to the Selectmen.

Mr. Gilman asked why this Ordinance was retroactive to Jan 1, 1989.

Mr. DiProfio explained that this is standard practice in Zoning. He stated that the Gilmans could go to the Board of Adjustment if they wished a variance to have six children.

Mr. Keddy asked for the square footage of the units to be used.

Mr. Gilman stated the total is 2592, plus 576 sf to equal 3168. They will be using 576 sf.

Mr. DiProfio motioned the Board grant a permit for Day Care. If the Gilman's wish more than four children, they may go to the Board of Adjustment for a variance.

Mr. Keddy second.

The motion passed 4-0.

Ms. Gilman noted that she has been doing Foster Care for six years.

The Public Hearings for Home Occupation Permits was adjourned at 8:44pm.

Mr. DiProfio stated the Board will consider a change in the Zoning Ordinance from allowing four children to six children to comply with State requirements.

FMR, INC. DISCUSSION Marshall Decker noted that the gate is shown on the plan and is noted on the plan. He stated they have met with Dennis Quintal and as requested the plans reflect the change in size of the culvert by the Fire Pond. The rate of run-off is no greater than the current run-off. There is no impact added. The capacity is sufficient to handle three 25-year storms with no outlet allowing for double reserve asked for.

Mr. Decker noted the Fire Pond is in a common area and asked if an easement is needed.

Mr. David Conti stated that an easement is not needed.

Mr. Decker said that he has talked with Ms. Whalen about the entrance and that Alan Garland, DOT, said movement of the entrance 100 ft. would mean major design changes but would allow that redesign of the last 10 ft. to lessen the offensiveness to her would be okay.

Ms. Whalen stated that she is hoping for the change of the road entrance.

Mr. Decker stated that he will send Mr. Rand out to see what can be done.

Mr. Rand noted that they must adhere to the safe site distances.

Mr. Decker expressed his concern about delaying the process necessitating coming back with a revised plan.

Mr. DiProfio (speaking as an abutter) stated that his concerns are that the FMR Subdivision not devalue his property. He wants to see the landscaping plan and the entrance plan in detail. He takes exception with the completeness of the submitted plan and questioned how the Board could determine that FMR has complied to the plan.

Mr. Rand stated this plan was to show a continuous row of screening consisting of trees.

Mr. DiProfio stressed that he wishes to see an attractive entrance.

Mr. Rand stated he can't show each tree.

Mr. DiProfio said he feels this is not a good plan.

Mr. Larry Smith arrived at 8:50pm.

Ms. Whalen suggested the type of trees she'd like to see used and suggested they be staggered three rows deep.

Mr. Richard Smith stated that pine trees are a poor choice as they pose environmental concerns.

Mr. DiProfio stated that if the Board had an explicit plan it would not have to be a question.

There was further discussion regarding the problems with the driveway and the screening.

Mr. Decker suggested the Board approve the plan and prior to construction they would get a landscape plan approved.

Mr. DiProfio asked if the Board was satisfied with the landscape plan.

Ms. Campbell said she will send landscaping plans to Mr. Rand for review.

Mr. Rand said he would go back to the State for the entrance location and come back with a landscape plan.

Mr. Decker then asked for conditional approval.

The 1498A Major Alteration Site Specific has been asked for, the fee has been paid.

Ms. Campbell stated the Town Counsel has the Articles of the Association for review. The Board is awaiting the bond information from Mr. MacArthur. No one has heard from Mr. MacArthur at this time.

Mr. Keddy stated there are too many things pending and to grant conditional approval at this time would be of no real benefit.

Mr. Decker stated this does not require State Site Specific approval.

Mr. Conti stated he is satisfied with the amendments as presented.

Mr. Larry Smith asked about Dennis Quintal's questions.

Mr. Rand explained that they have been address and he again explained what had occurred and assured Mr. Smith that Mr. Quintal's requests have been put in place.

Mr. Larry Smith requested that they be run by Mr. Quintal one more time.

Mr. Decker requested a letter listing all the necessary outstanding criteria/ordinance backups/tine/frame/road bond/legal concerns/Articles of Association needed to move it along.

Ms. Campbell read from the Ordinance the requirements for the Landscaping Plan.

Mr. Rand asked for something more specific.

Ms. Campbell listed the following items as outstanding:

1. Site Specific issue.
2. Access issue - driveway with State
3. Bond - Road
4. Articles of Association - review by Town Counsel
5. Landscape Plan
6. Conservation Commission concerns review

It was agreed between Mr. Decker and the Board to meet again on December 20, 1989.

Mr. DiProffio stated for the record that Mr. Decker can wait for 30 days for a decision, and not wishing to make any waves, he wished Mr. Decker to know that he is due a decision now.

Mr. Decker stated that he will return on December 20, 1989.

EBEN MELVIN BOWLEY Ms. Campbell stated that she talked to Mr. Bowley. She noted that Mr. Bowley's mylar was recorded today, November 15, 1989.

HOME OCCUPATION ZONING CHANGE PROPOSALS Ms. Campbell will draft a change to be considered to change the Home Occupation Zoning Ordinance to coincide with the State regulations.

Mr. Conti explained the differences between the Town's ordinance and the State's.

MISCELLANEOUS

1. Ms. Campbell will send the proposed ZD amendment changes to the Town Clerk for inclusion in the Town Warrant.
2. Ms. Campbell will send Marshall Decker a letter outlining the needs outstanding on his proposed Cluster Development.
3. Mr. Richard Smith stated the need for drafting the Water Resource Management & Protection Plan. The cost to have RPC draft this is \$2500.

Ms. Campbell stated this is required by the Office of State Planning.

Mr. DiProfio stated he wants a chapter for Water Resources ready.

Mr. DiProfio motioned to approve the contract between RPC/EK for the production of WRMPP.

Mr. Keddy second.

The motion passed 4-0.

The Selectmen will sign this contract.

JOSEPH CONTI-SUBDIVISION APPLICATION Mr. Joseph Conti presented the Board with an application to hold a Public Hearing on his behalf to subdivide three lots. There was a preliminary discussion at this time.

A Public Hearing was scheduled for Mr. Conti for December 20, 1989 at 8:00pm.

The Public Hearing is continued for FHR at 8:30pm.

The meeting was adjourned at 10:20pm.

Respectfully submitted,

Nancy J. Marden, Secretary/Clerk