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PLANNING BOARD
TOWN OF EAST KINGSTON
NEW HAMPSHIRE

2007-2008
James Roby Day, Jr., Chairman
Catherine Ellen Belcher, Vice Chairman

MINUTES
(Regular Meeting of 20 December 2007)

AGENDA:

- 7:00PM - Board Business
- 7:05PM - Review of Zoning Ordinance Article XII – Elderly Housing (for annual review).
- 7:50 PM – Continued Board Business
- 7:59PM - Adjournment

CALL TO ORDER: Chairman Day called the regular meeting of the East Kingston Planning Board to order at 7:00PM.

ROLL CALL: Mrs. White called the roll.

Members present- Mrs. CE Belcher, Vice-Chairman; Mr. JR Day, Chairman; Dr. RA Marston.

Mr. RA Smith was not in attendance. Mr. R Caron, ex-officio, was not able to attend as he was out of town; Mr. Dick Poelaert attended in his stead.

Alternate members present –Mr. EA Lloyd and Mr. RF Morales. Mr. Sullivan was not in attendance.

Advisors present – Mr. Eric S. Steltzer, Planner, Rockingham Planning Commission (RPC).

It was noted that Mr. LK Smith, Conservation Commission Chairman and Ms. Julie Urwick, Fire Department EMS Lieutenant, were not in attendance. Mr. RR Donald, Building Inspector had a meeting conflict and also was not in attendance. Mr. Morales enquired as to why the Fire Department had not attended the last meeting, noting this is two months in a row without representation. Mr. Day observed that Ms. Urwick had been called away for a Rescue response at the last meeting, however, he was uncertain as to why no one was present now.

Voting members –Chairman Day noted there was a not a full voting Board present; and appointed Mr. Morales as a voting member for this meeting.

BOARD BUSINESS

Minutes. Mr. Day asked if Board members had received the 15 November minutes, and if there were any changes noted. Mr. LK Smith had offered a small correction on page 3, and Mrs. Belcher offered a change of wording to the motion for the Home Occupation recommendation. Mr. Day opined the comment from Mr. Poelaert under the *New Tax Rate* subheading was confusing. The statement referred to a loss of revenue in graduated current use penalty payments for Maplevale and Country Hills. This penalty comes to the Town as revenue, but the money had never been counted as revenue in the budget. After Board discussion, it was decided to eliminate the sentence in question for the sake of clarity. The last sentence was also reworded to read, “He attributed the largest rise, in great part, to the approved warrant and bond articles.”

On page 4, Mr. Day felt Mr. Quintal’s wording of Mrs. Turner’s driveway being designed to “turn in” was not clear, and it was determined the wording “traverse the slope” should be used to lessen confusion. There were no other changes or additions. Mr. Day entertained a motion for approval of the minutes.

MOTION: Mrs. Belcher **MOVED** the Planning Board approve the 15 November 2007 minutes with the corrections/ changes noted. Dr. Marston seconded, and the motion passed unanimously.

Mr. Day reviewed the handouts with the Board.

Definition of Polity. With Mrs. White’s question on the meaning of polity at the November meeting, Mr. Day had looked it up to be certain he had given the correct definition. He had. Polity means “civil order or organized society”.

Dog Kennels and Zoning. In answer to an enquirer’s question of last month on whether or not she could have a doggie day care and boarding facility, Mr. Day had contacted Attorney Kim Halquist (NHMA) in regard to the dogs and kennels question. Atty. Halquist noted unequivocally that East Kingston’s present Zoning would preclude a boarding kennel

operation by virtue of it being a commercial activity in a residential zone. Kennels are also not listed under permitted uses in the Home Occupations Zoning Ordinance article. Ms. Halquist's recommendation was that the definition of exactly what constitutes agriculture be included in the definitions so as to distinguish it from other commercial activity. Mr. Day noted that New Hampshire is touchy about agriculture, and, as a consequence, the question of what exactly is agriculture lends itself to abuse by the unscrupulous.

Mr. Morales asked how it differed from a request several years ago regarding raising rabbits and selling them. Dr. Marston answered that all agricultural activity is considered commercial activity, as crops or animals themselves and/or their products (i.e., milk or eggs) would be sold. Mrs. Belcher opined that if the enquirer was raising her own dogs, it could be considered quite differently from her proposed doggie day care and kennel.

Mr. Morales thought the subject might bear addressing for clarification in the ordinances. He himself takes his dog to a facility (not in East Kingston) where he can run and burn off excess energy. He noted there were a lot of new businesses in the area opening up including doggie day cares, boarding and grooming, and the question was likely to come up again in the not so distant future. He noted that there were some dog groomers within East Kingston.

Mr. Day was almost certain that New Hampshire defines statutorily what it considers agricultural activity to be. He does not believe that dog kenneling would be included under agricultural activity. Mr. Day recalled that there had been an instance on Powwow River Road with a woman keeping all sorts of animals, which had posed difficulties for the Town.

Ms. White offered that she had left an article at the office for Mr. Day in reference to the kennel question in another New Hampshire Town, and that it had been suggested that the definition of kennel be included in their ordinance definitions.

Home Occupations and Enforcement. Mr. Day had been approached by a member of the East Kingston Police Department regarding how to proceed in reference to the home occupation of Keith Campbell on North Road, who is in the chandelier restoration business. It appears that there are all sorts of traffic problems with the trucks that are delivering to him blocking part of the road. Mr. Morales also noted that there was tons of trash in front of the house. Mr. Day had referred the problem to the Code Enforcement Officer, who is Mr. Ray Donald. Mr. Day took a cursory look at the ordinance, and Mr. Campbell is in violation of his home occupation permitting and the ordinance. He offered that to the Police, and they will approach the Code Enforcement Officer, who will look into the matter. Mr. Day offered that the Selectmen could hear about it next.

Mr. Poelaert asked if someone is in violation of a Home Occupation permit, does the Planning Board take care of the violation or is it up to the Board of Selectmen? Mr. Day pointed out it was the Board of Selectmen/Code Enforcement Officer's responsibility as is described in the Ordinance. Mr. Poelaert stated it would be helpful if a violation were known about, if it would be reported to the Selectmen as they are in charge of renewing the permits each year; Mr. Day agreed. Mrs. Belcher noted that the Planning Board only recommends, and it was up to the Board of Selectmen to approve or disapprove the home occupation. Mr. Day explained that the Planning Board is not an enforcement agency, as they do not have the means to accomplish it.

Article XVI Home Occupations, Paragraph K. Enforcement states, *"This section shall be administered and enforced by the Board of Selectmen."* Mr. Day explained that the Selectmen's first tool to accomplish enforcement is the Code Enforcement Officer; secondarily it would be the Police. Article XVI also states, *"Any person who violates the provisions of this section shall be fined \$100 for each offense. Each day that a violation is continued shall constitute a separate offense...."* This would occur after written notification by the Selectmen.

Mr. Poelaert commented then if a Home Occupation comes out of compliance, it would be the Police that would take care of it. Mrs. Belcher clarified that it could be anyone giving a complaint; it just so happens that this one had originated with the Police. Mr. Poelaert asked if withdrawing a Home Occupation permit should be considered in instances of non-compliance. Mr. Day answered that such action is certainly within the selectmen's authority, and it would be up to them to determine whether there is a violation of the conditions of a permit and the ordinance.

Mr. Morales seemed to remember that Mr. Campbell had closed his business in Massachusetts and was going to bring all the stock into the large garage he had built and have one or two other persons working there. He would work on one chandelier at a time, and most times would clean them on the premises. Mr. Morales was concerned that with the leather sales next door, the problems with trucks and trash could be exacerbated.

Mr. Day reflected that Mr. Campbell had just purchased what used to be the Black Bear General Store on Kingston Road in Exeter and was going to move his chandelier business there; therefore the problem might go away. Mr. Day noted that in the meantime, Mr. Campbell needed to know he is in violation and needs to come into conformance with the conditions of his home occupation permit and the ordinance.

Septic System Design and Regulations Fees. Mr. Day ascertained that these two items could be completed in a work session to be held in January. He polled the Board and they agreed to meet on Tuesday, January 22 for a work session. Mrs. White will check if the Town Hall is available that evening.

The fees needed to be approached from a regulations aspect, as well as the zoning ordinance aspect. Mr. Day noted that they were out of the window with regard to Zoning Ordinance change recommendations for Town Meeting, so they would shoot for 2009. He wanted to make sure the fee schedule agreed upon worked with the Board of Selectmen, as the Planning Board would, for all intents and purposes, be adding the Planning and Zoning fees to the Selectmen's fee list and taking them out of the ordinance and regulations.

New Hampshire Estuaries Project. Mr. Day handed out a Project Survey from the University of New Hampshire regarding the New Hampshire Estuaries Project, along with a printed tag to seal it with. Planning Board members were asked to fill out their own form and return it as soon as possible. It was for determination of how much the Board members actually knew about the project.

Cooper's Grove Letter. Mr. Day reminded the Board members of the Coopers Grove subdivision. The mylar was signed by Kingston, and the note about not developing on East Kingston property was wrong. Mr. Day had sent a letter to them pointing out the discrepancy, and Kingston Planning Board Chairman Glenn Coppelman had assured Mr. Day he would respond accordingly to correct the discrepancy.

Elderly Housing Ordinance Review. Mr. Day noted that the Elderly Housing Ordinance Review was an annual requirement as described in Zoning Ordinance Article XII – ELDERLY HOUSING. Mr. Day's calculations were on the 2nd page of his worksheet handout (see attached), and the 3rd page was the doorstep count. The doorstep count includes all the lots in Glenn Clark's development, whether or not they are built at the present time.

The Town continues to grow, but the rate of growth has slowed. That said, with this year's house count, the calculations required by the ordinance article results in there being allowance for a total of 35 more elderly housing units, with 30 units being the largest permissible in a given proposal. Discussion ensued as to whether the Board would want to recommend a zoning ordinance change in light of this review.

Mrs. Belcher asked if it would be feasible that a single developer could subdivide to build 30 houses, and on another parcel subdivide to build another 5 houses. Mr. Day answered it was possible, but that he doubted there were parcels of the necessary size to do so. Mrs. Belcher asked, for example, if Country Hills could purchase something less than the required 20 acres and just add on to their existing development. Mr. Day asked if the developers would be starting anew, or would they need to come to the Planning Board with revisions to the original development. He thought the Planning Board would have to be very careful with any such proposal.

Unless the Board sees something they might want to change, Mr. Day thought no changes were needed to the Elderly Housing article, although there was time before Town Meeting to do so. It was the consensus of the Board members that no changes were necessary at this time, but the door was still open.

Mrs. Belcher stated if anything, the only thing she would consider changing was the 25% figure. Mr. Day stated that when the Board had revised the 25% figure from 50%, Dr. Jill Robinson, RPC, had stated that it was still a very generous figure. Mr. Steltzer offered that Newton's elderly housing figure was 10%. Mrs. Belcher wanted to know if it would be feasible to lower the percentage number so as not to appear so attractive to developers. Mr. Day stated that there were not that many parcels of land remaining that were not in conservation that would be large enough to meet the requirements. Mr. Morales offered that there was 65 acres across the street from him, which they are unsure of how to proceed with due to conflict in the family. Also, Mr. Bagshaw has 45 acres, a good portion of that being wetland. Dr. Marston offered that Mr. Turco has a large parcel of land adjacent to his, and no one has approached him in regard to conservation easements yet. It seems he has the same problems as the acreage across from Mr. Morales.

Mr. Lloyd stated that if you looked at the status quo, the 153 elderly units are just over 20% of the standard residential housing. If they were to lower the percentage to 20%, it would actually be over the number by three houses. Mrs. Belcher asked if the elderly housing impacted the school costs, and Mr. Day observed that the cost of schooling today has relatively little to do with the number of students. Mrs. Belcher offered that other towns base their taxes on school population, although East Kingston does not.

Mr. Day was fairly certain they had time to get to a public hearing in January and asked Mr. Steltzer if indeed there was time. Mr. Steltzer answered that for any changes in zoning, they would need to notice by the next day and have their

Public Hearing by January 1; Mr. Day reminded Mr. Steltzer that East Kingston was not an SB2 town. Mr. Steltzer stated since they were not, then the deadline for noticing before a traditional town meeting was January 10th.

Mr. Day and Mr. Steltzer would look at the dates and decide on a timeline by which decisions would need to be made to take one article to Town Meeting regarding the Elderly Housing. Then the Board could have a short work session before the next meeting to determine what sort of figure they might want to change it to.

Mr. Day and Mrs. Belcher noted that the present economy was on their side at the present time with regard to any planned development. Mr. Day was sure that was partially responsible for East Kingston's growth numbers coming to a screeching halt in the last year.

Mr. Morales noted that demographics showed that New Hampshire was now the oldest state in the nation, and putting more and more elderly housing throughout the state exacerbates the problem. That is a valid reason to lower the percentage, allowing the younger people to come in for the future of the state. Mrs. Belcher stated at the last Town meeting, there had been an undercurrent of animosity and she was surprised to see it had come from the older population, as opposed to the younger population.

Mr. Poelaert noted that in times past, you could have a discourse, perhaps even a disagreeable discourse, and at the end, the vote was taken and that was that. Unfortunately those days were over and now people wanted to finish the discussion out in the parking lot.

In regard to the last Town Meeting, Mrs. Belcher thought, no matter whether the Selectmen were right or wrong, they had been treated poorly and disrespectfully, and for her as a resident of the Town, the meeting was an embarrassment. She was aghast and shocked at what had transpired. Mr. Poelaert stated also that the *Exeter Newsletter* appeared to be unconcerned about making sure they reported the news correctly. They had noted his name incorrectly in all the articles they printed.

Hats Off. Mr. Day said Hats Off to all who came out to the meeting tonight with the terrible weather. He recounted that he believed Mr. Richard Smith had not missed a meeting since 1995 when he himself first joined the Board, and Mr. Day would not be surprised to learn that Mr. Smith had never missed a meeting in all the 27 years he was Chairman. Mr. Smith knew monthly meetings to be a statutory requirement. His dedication is admirable.

Old Library Building. Mr. Poelaert stated that sometime within the next month or so, the old library building was to be turned over to the Town and they were looking for tenants, and suggested the Planning Board meet at that location from now on. It was brought up that large meetings would not be able to be accommodated there, but if a larger place was needed they could always use the Town Hall or the school, depending on how large a crowd was expected. Mr. Poelaert's suggestion was favorably received by the Board members.

ADJOURNMENT:

MOTION: Dr. Marston **MOVED** the Planning Board adjourn. Mr. Morales seconded, and the motion carried unanimously at 7:50 pm.

Respectfully submitted,

Barbara A. White
Recording Secretary

J. Roby Day
Chairman

Minutes approved January 17, 2008. At the end of,

Clarification to paragraph 8 on page 3 is included in 17 January 2008 minutes.
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