

**KENSINGTON, NEW HAMPSHIRE  
KENSINGTON PLANNING BOARD  
TUESDAY  
February 21, 2017  
7:00 P.M. AT THE  
KENSINGTON TOWN HALL  
95 Amesbury Road  
Meeting Minutes- Approved 3-21-2017**

In Attendance: Peter Merrill, Michael Schwotzer, Jim Thompson, Glenn Ritter, Joan Whitney, Bob Solomon, Julie LaBranche, RPC Representative.

Meeting was opened at 7:19pm by Jim Thompson.

Joan asked that reflectors be placed at the driveway opening during the snow so that people know where the opening is.

All board members have the agenda and the letter from the Board of Selectmen to review.  
Jim asked if everyone has the copy of the easement.

1. The board started with number one to respond to each question individually. What type of drainage system has been agreed to by the Planning Board?

*Joan recalled that what the planning board has agreed to is an open ditch with berms, and an easement to construct, if the town funds it, a more elaborate drainage system.*

*Peter explained that once you direct the water to be coming in on lot 5 side of the berm, then the water will not be going onto the Hansards property. Mike commented that if the town does not move the culvert, which is not required, then the water being accumulated on the Lambert property will follow the berm and move out towards 150. They will not have changed anything in regards to the property that is getting hit by water from the old subdivision, therefore it is up to the town if they decide to move the culvert and then construct the piping system using the easements that are referenced across the Lambert subdivision. Mike continued that the subdivisions water will not affect the Hansard property any way, and it all comes down to if the town wants to move the culvert, and redirect the water that is coming out of the old subdivision. The planning board has agreed to put in a ditch that will take care of the current Lambert subdivision lot and allow the town to do something. The board agreed this was a good answer for number one.*

2. Who is to bearing the cost of the installation for the drainage system on Lot 4, Lot 5 and Lot 6?

The Easement states "The right and easement for the installation, maintenance, replacement and inspection of a culvert, and manholes and rip outlet and such other drainage structures or systems as the Town of Kensington and or/ the State of New Hampshire (DOT) shall hereafter determine to be necessary, for the benefit of the Town of Kensington, over a portion of land shown as Lot 4, Lot 5 and Lot 6.

*Mike stated that it depends on if he is talking about the new drainage system, or the elaborate drainage system after moving the culvert. The Lamberts will build the berm and the ditch, and the town is responsible for putting in anything beyond the ditch and the berm, Peter interjected to also add the driveway culvert for Lot 6, Mike agreed, they are controlling the water coming off the current subdivision. Once the owner of Lot 6 puts in their system they should be able to get a building permit for the lot.*

3. Who has agreed to maintain the drainage system in future years?

*The town is responsible. Peter read that the part of question 2. If the town is just moving the culvert and dumping the water onto lot 5 the question is who would maintain the berm. Mike explained that the developer or owner is not going to allow the town to dump water from another subdivision onto his property without a drainage system. It is not his water, there are two choices, leave the pipe where it is or put in the piping system in and have the water run through a contained system toward route 150.*

He does not believe that Mr. Lambert or the planning board envisioned moving the culvert and routing the water that way. Legally you can't dump the water onto his property without the buried pipe system. Mike clarified that the plan calls for a ditch and a berm, but through the easement the town can put in a piping system with manholes to divert the other subdivisions water. This is either or. Julie does not agree that was the decision, and that the plan or the easement don't state that. The easement is just a drainage easement and it does not state in the easement what needs to go in the easement. The easement document states it is under the discretion of the town what they build there. As part of the preconstruction, Mr. Lambert stated he would create the berm and he would excavate the swale, and if the town wanted to use that berm and swale or replace it with a pipe it would be up to the towns discretion. The town will have to divert the water off of the Hansard/Peacock property over to lot 4, 5 and 6, and if they do that it is not adding any more water to the property it is just redirecting it. Instead of going across the Hansard/Peacock property it is directing onto lot 4. Mike stated that it is going onto the subdivisions land and not where it is going today. The way he is reading it is that they can install specific things, and other such things. Julie stated that the town didn't really sign off on the design and what they wanted to put there so the options are for anything from the berm and swale and redirection of the culvert and a more subsurface structural design with the pipe. The town had never really signed off on it and David never or the Selectmen never made the commitment. Bob stated that if the town chooses to move that culvert and creates and issue on his property, he thinks he would have a right to come back on the town. Julie stated no, but that the town has to come up with a sound drainage solution that is engineered so that it doesn't cause a problem. This easement is for the town to do whatever they want to do within it. The document is very general for that reason. Peter expressed that the difficulty with the document being vague is it allowing the town to interpret it to just move the culvert and divert the water to the berm. Julie is stating that the town has to come up with something that is responsible. We can still use the berm and the swale. Peter expressed that with the number of storm events that occur, if I am the new owner of Lot 5, why would I be happy with that? Those lots would be valued less due to the easement on those lots. Mike believes that you will be trading the drainage from one property to involve 3. Julie stated that this will hold quite a bit of water flow. Peter commented that everyone here understands that moving the culvert is to fix a problem from 15 years ago, Mr. Lambert is allowing the easement for the town to be able to fix the issue.

4. Has the Planning Board secured an agreement with Janet Trabucco and David Lambert to allow the Town of Kensington to divert water runoff from Moulton Ridge Rd and Kensington Farm Development onto said Subdivision Lot 4, Lot 5 and Lot 6? Yes.

5. If the berms are installed and determined to be inadequate who is to bear the cost of upgrading the system? Mike explained that there are two answers to that question. If you move the culvert then it's the town, if you don't move the culvert then it is the subdivision and land owner. Joan stated that she thinks that the town is responsible if the it is built to the specks on the plan. Mike stated that if there is no movement of the culvert, then the town has recourse if the berm system fails. Jim stated that if the berm washes away that would be determined inadequate, then Lamberts would be responsible. If the town moves the culvert, then it would be the town's responsibility. Peter expressed that he is unsure if there was engineering and what discussion took place with moving the culvert. Mike remembered them stating that they would build a ditch and berm, and then if the town wants to at the town's expense they would give the town an easement. Julie stated that if the culvert doesn't get moved, the berm system is still going to help divert the drainage from the Hansard/Peacock property. Peter asked Julie's opinion on dumping the water into the berm, verses putting in the appropriate piping system. Julie is unsure, but where it is coming out of the Hansard/Peacock property and creating a channel across the property. If you redirect the culvert and put in the property apron, you can have a stable drain. It depends how much the town is willing to spend. Peter stated from a stand point of maintenance the check systems and swales might not be as cost effective as installing the piping system. Julie stated you would have to do a cost benefit analysis. Ditch and berm will be cheaper, but the maintenance might be more over time. She continued that Mr. Lambert was going to start the construction of the berm this spring. Peter informed the board that the money from the Road Reconstruction could be utilized to help with the culvert redirecting, if there are no other

*projects on the schedule. Mike stated that once the money is voted it is up to the board to direct, and if the town has committed the money to another project already. If the board decides to move the culvert they should have an engineer do a plan for this.*

Kathy explained that she remembered from the meeting last night was the question of the water and does the word drainage encompass that? Julie confirmed that drainage is storm water runoff, so it would all be included in the current wording. Peter does not think that there was any talk about the redirecting and the dumping of the water. Mike thinks that the town has to have an idea about it, and should have engineering done.

Jim looked through the easement for the Hansard/Peacock property. Julie handed out copies. Joan stated that they are interested in preserving the trees as much as possible and it is stated in the easement. Bob stated that it is open to what the town wants to do, but it is just over a small front corner of their property.

Mike addressed the board and stated that he reviewed the chart of the planning board members and that there is two permanent members open and Glenn is one. He asked if Glenn would like to reup as a full member. Glenn agreed, and Mike would like to be considered for the other position of full member to expire in 2020.

Mike made a request to be added as a full member to the Planning Board and not an alternate to expire in 3 years for both him and Glenn.

**Joan made the motion to recommend Mike and Glenn to the selectmen for full member 3 year terms, Peter seconded, all in favor.**

Joan explained that the meetings for TAC are the 3<sup>rd</sup> Thursday of the month in the morning in Exeter. You are there to represent the town and listing to the 10 year plans for the state roads in the area. Joan informed the board that she would take the TAC appointment if there was not anyone else interested in attending. Jim asked about the 150/107 intersection being turned over into a round-a-bout? Most board members agreed that would be best, instead of stop lights. Mike explained that there was talk of making the intersection a 4 way stop for a number of years and then make the stop on 150 instead of the 107 section. Peter agreed that it is inexpensive and agreed that it would be a good idea. Joan relayed that she has been told that there is not the sight distance on 107 that is why the stop signs are the way that they are. Peter stated that there are some issues with the setbacks in that area for the round-a-bout to be installed.

Julie informed the board that the lot merger that came before them last week is not a planning board issue and was handled through the selectmen.

Minutes will be reviewed at the next meeting. January and February minutes will be reviewed then.

Peter would like to assign the priorities for the next year on what the board would like to get accomplished.

Jim informed the board that there will be a subdivision application coming before the board at the next meeting, or soon, they are going before the zoning board of adjustment the first Tuesday in March.

The board commented that the Accessory Dwelling Unit ordinance is now in effect. Peter asked if the both articles pass would the stricter one be implemented. Mike stated that it will be a legal issue if both pass. Julie stated that anyone can take a chance and start a new application, and that could be stated. Kathy explained that the planning board articles can be shortened by legal, and the citizen's petitioned articles have to go onto the ballot as presented.

Julie asked about the fate of the Fact sheet created and can it be distributed publicly? Peter is unsure if it can. This is a Kensington Planning Board public document for public information and should be disseminated. Julie asked where it is a planning board document, can it be posted on the planning board web page. Peter asked who is the person who decides who puts information on the website page for the

planning board? Julie stated that the planning board has the say on what is posted to their page, with the oversight of the board of selectmen. They are a volunteer board that are appointed members to do a certain job under state statute, and putting out information materials about ordinance that you are putting forward on the warrant is within the board purview, there is no law against doing that. This isn't any different than having people present and going through the information with them. She continued with the question about public money being used for the flyer and that it was mostly by her time as the town circuit rider, under contract, and the boards volunteer time to create it. To do planning related activities. Mike asked if they have gotten legal interpretation on it.

Peter expressed that they need to fine tooth comb it. Peter stated that some of the information will need to be updated. Julie stated for the board to send her their changes and she will update the document.

**Mike motioned that the Board of Selectmen get permission to send it to the town council to answer the question, can this be distributed by the planning board as a planning board document. Peter recused, Bob seconded, all others in favor.**

Julie will bring forward some suggestions and priorities for the next year.

**Glenn made a motion to adjourn at 8:20pm, seconded by Mike, all in favor.**

Respectfully submitted,

Kathleen Felch