

**KENSINGTON PLANNING BOARD**  
**TOWN OF KENSINGTON, N.H.**

KENSINGTON TOWN HALL  
TUESDAY, OCTOBER 18, 2011  
7:30 PM

**Approved- November 15, 2011**

In attendance: Joan Whitney; Jim Thompson; Dylan Smith, RPC; Kate Mignone; chairman; Robert Solomon; Michael Schwotzer; Stefanie Johnstone, Selectman's Rep.; Glenn Ritter; Peter Merrill arrived at 7:51pm

Chairman, Kate Mignone brought the meeting to order at 7:33pm

**NEW BUSINESS**

Driveway Permits- David Buxton approached the board with a permit for Peter Brewer on the property located off of French's Lane, known as Map 11 Lot 44-1. David indicated that the proposal is better than a lot of the ones submitted in the past. David indicated where the driveway would be on the plan that was provided. Mr. Brewer indicated in detail on the application where the driveway is to be located. The board reviewed the plan with David.

***Mike made a motion to accept the driveway permit for the Brewer property Map 11 Lot 44-1; Joan seconded the motion, with all in favor.***

**Brewer signing of plan for Subdivision of Land located off of French's Lane.**

Subdivision of Map 11 Lot 44, into two lots now known as Map 11 Lot 44 and 44-1. The board went over the conditions of the subdivision approval and reviewed the plan submitted.

***Joan moved to accept the plan as submitted, Mike seconded all in favor. Mike made a motion for the chairman to sign all the plans on behalf of the board, Glenn seconded, all in favor.***

**Buxton Mylar**

Mike signed the Mylar for David Buxton from a previously approved subdivision. Mike signed because he was the chairman at the time of the original approval of the plan.

**OLD BUSINESS**

Dylan passed out the working copy of the Aquifer Protection ordinance. Kate had some comments that he tried to address, and he will go through them and any others that the board might have tonight. Joan wanted Dylan to clarify what a feed lot is. She felt that people might be confused about what was meant. Dylan explained that it is an area with a commercial agricultural use that is when more than 5 animals are raised simultaneously. Mike asked on a dairy farm is the barn considered confinement. He indicated that a feed lot to him is a fenced area where a lot of animals are packed tightly together to fatten them up for slaughter. Jim asked if there were any in town now would they be grandfathered and Dylan indicated that they would be grandfathered.

Dylan couldn't think of any that exist around here. He indicated that it would be something with very big agricultural commercial, not someone that has a pasture, more of a mid western feed lot. Joan thinks that people will question what this means. She would like a definition in there that states that they would be to have a pasture area.

Jim asked if it would be because of the manure going into the ground. Dylan explained that if you have a high concentration of cattle; something like that; in an area then that you are dealing with a lot of fecal matter in a concentrated area that would go into the aquifer. Joan asked if there are other towns that have agricultural uses on the aquifers. Brentwood and Exeter have similar aquifer protection zoning. Dylan indicated that the board can take it out of the prohibited uses if the board decides to. Jim asked if you could change the number of animals indicated. Joan stated that they could remove it and work on a different definition for next year. Jim indicated that they already have a definition of leach able waste; he thought that would cover it. Bob indicated that they are not limited, prohibited uses just say including. Dylan indicated that there is some flexibility for the planning board to determine some of the uses that are taking place even if they are not specifically mentioned in here for consideration of the aquifer and possible contamination.

Bob indicated that 20 years from now this will work as a guide to what the board had intended. Dylan will take out the Commercial Animal Feed Lot from the prohibited use H and drop it from the definition. Peter indicated that anything that already exists will be grand fathered.

Under prohibited uses on page 5 of the ordinance. Dylan wanted to talk with the board about that use. Joan asked if they need to get a conditional use permit if they are in the commercial district and they want to do work force housing. Kate if an applicant was to propose it in the aquifer overlay district, then they would need to get the conditional use permit.

In the section 3.1 hydraulic study subsection:

a- subdivision of 10 or less. Mike indicated that it should be 9 or less. Kate indicated that the board tries to figure out the lots by the length of the road. Dylan indicated that they received the information from a hydrologist. Hudson Heights has 8 lots. Rose Petal has more than 10, with half in a compact area and more lots at the end of the cul-de-sac. Would that be in the district? Hudson Heights would be sitting on top of it.

Aquifer goes into Exeter, and Mike was wondering how big their districts were. Joan is not saying that they can't do it just saying that they need to take this approach. Kate this is not to catch people, but to see their intent. Glenn indicated that if you keep putting more and more restrictions on people they are not going to vote for it. Bob indicated that this ordinance is geared more for the developer. Mike explained that if you make sure that the aquifer is protected then that will protect future land owners. Glenn if you are trying to protect the land owners then why not make it 2 or 3 lots. Joan indicated that would be more on existing roads, other than just new developments.

Dylan indicated that there would be more disturbance and lack of storm water infiltration. A big subdivision would be putting in larger storm water to carry off storm water. Glenn would like to see a cost estimate for a hydro geological study for example. Kate expressed that it would be between \$3-\$5 thousand dollars. It would not be too much impact for the big dollar subdivision. Kate asked if people putting in their own sprinkler systems outdoors would be drawing on the aquifer. Dylan indicated that in Newmarket, during a drought, they use code orange and red; a town ordinance would deal with something like that. Jim asked if the commercial district would be exempt from the Aquifer District. Dylan explained that they would need a conditional use permit to use the land in the commercial district. Jim suggested either one of two things, would be to change the commercial district, or exempt them from the Aquifer Protection. Dylan explained that this is basically the same plan that Brentwood has, and they do the conditional use permit process. Bob indicated that if someone wanted to do something, it could be done. Mike explained that the board has known for years that the commercial district is in the wrong part of town. Twenty thousand gallons is the limit for water extraction and that is state regulation. Joan commented that it is so that they are not drawing water out and selling it. The board decided to go with 8 and section C would be 7 or less, also the definition on feed lots and use will be deleted.

***Mike made a motion to move this to public hearing as amended. Kate seconded the motion as amended. All in Favor.***

If the Aquifer Protection is voted on and accepted in November it will be effective until the town meeting. Dylan will prepare the final draft.

### **Fines on Ordinances :**

The board had been asked to raise the issue on fines. They expressed that the fine has to be noticed and that the Board of Selectmen are the enforcement agent for the town. Each new day would be a new violation. RSA 676:15.

Peter asked if the Board of Selectmen could put that the new chief be the code enforcement officer for the town. If there is a violation the board of selectmen sends a letter to the property owner from the board. Stefanie indicated that it has been discussed and that they are unable to find the right avenue to do it.

Stefanie Left at 8:40pm

### **Abutter Definition:**

Currently the abutter definition is anyone touching the property and directly across from the property. The proposed definition follows.

**Abutter:** For the Town of Kensington an abutter shall be any property owner, whose property is located in New Hampshire and within two hundred (200) feet of any property line, including across a street or stream, of a land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that their land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356-B:3, XXIII.

The board discussed the proposed definition and that there would have to be a public hearing to change the definition.

***Peter made a motion for a public hearing for the second definition, Joan seconded; all in favor with one abstention.***

**If passed at the public hearing on November 15<sup>th</sup>, it will go to the ballot as is. No amendments can be made at the deliberative session to Planning Board Articles.**

### **OLD BUSINESS:**

**Master Plan-** Land Use Chapter, existing and future; Maps- Dylan- draft chapter of the existing and future- Dylan would like to postpone to the next meeting. Hold that at the next meeting. Dylan will email out the draft to have before the meeting.

### **OTHER BUSINESS:**

Approval of September 20, 2011 Meeting minutes

*Peter motion to accept meeting minutes as presented, Mike seconded all in favor.*

Joan updated the board that the Library is proposing a parking lot behind the public library, with a walkway to the grange building.

*Peter made a motion to adjourn 8:55pm; Mike seconded. All in favor.*

**Next Meeting –November 15, 2011- (public hearing for aquifer and definition of Abutter)**

Respectfully,

Kathleen T Felch, Planning Board Clerk

APPROVED