

**KENSINGTON PLANNING BOARD
TOWN OF KENSINGTON, N.H.
KENSINGTON ELEMENTARY SCHOOL LIBRARY
TUESDAY, JULY 17, 2012
7:30 PM**

Meeting Minutes-approved 8/21/12

In Attendance: Kate Mignone, Peter Merrill, Joan Whitney, Robert Solomon, Dylan Smith, RPC rep., Kevin Rosencrantz, Selectmen's Representative

Chairman Kate Mignone called the meeting to order at 7:30 pm.

Public Hearing

Lot Line Adjustment

E & P Properties- Eric and Penelope Peterson

Kate started the hearing by reading the information on who should recuse themselves from an application and why. Peter Merrill recused himself from the public hearing on the Lot Line Adjustment for E&P Properties. This left the board with no quorum so they recesses for 5 minutes. Kevin would be in shortly so they moved on to the next item until he arrived.

Kate called the meeting back to order at 7:39pm.

New Business:

Driveway permit for Kuegel on North Road- wetlands issue

Peter Merrill rejoined the board for the North Road discussion. Kate informed the residents that she received a letter from the abutter to the property, which will be included with the meeting minutes. Kate read the letter aloud to the residents and abutters present.

Kate had talked to Jim Driver, who deals with the State Driveway Permits, about the driveway for Peter Kuegel on North Road. After a complaint was brought up to her, she examined the soil conservation maps. The town does not have jurisdiction over the driveway, but does have it over the wetlands and from what Kate could see from the driveway plan the driveway would be going over wetlands. She was also told that the resident to the east has to give a sight easement before the driveway can be approved.

Sydnee Goddard was present and explained that if there is a wetland issue it goes to the NH Department of Environmental Services, the Conservation Commission doesn't approve or disapprove they just give their opinions to the state.

Michael MacQuarrie informed the board that in order for him to put in a driveway he had to obtain all kinds of permits, and it was a lengthy process.

Steve Smith asked what the land owner has to do now. Kate responded that Mr. Kuegel will have to go to the NHDES and apply for a wetlands permit. He will also need a special exception from the ZBA for driveway over wetlands. Robert Solomon asked who tells him he needs to go to the NHDES, and Kate responded that code enforcement does, which in Kensington, is the Board of Selectmen. Harold Bragg questioned why the board took action on the driveway permit in an earlier meeting. Kate responded that they had approved the permit with the information presented, but it came to the board's attention that North Road is a state road after the Planning Board meeting. The board then informed Mr. Kuegel that he needed to obtain a state permit for the driveway. It is not the Planning Board's jurisdiction to approve state driveway permits. The board discussed amending the meeting minutes. Different ideas on amending the meeting minutes were discussed. The board also discussed that the current driveway permits do not have any questions on soils or wetlands, and that will be looked into.

Mr. Bragg directed the board to a soils book that is available for them to see what the soils in the town are and he suggested to the board that they might want to use it. Peter conveyed that Mr. Bragg's point was well made, as were all the abutters' points. Sydnee Goddard suggested that maybe in the future the town might have a requirement that the applicant include the soils with their application.

Joan made a proposal that Dylan draft something indicating that soils be added to the driveway permit. Kate seconded, all approved.

PUBLIC HEARING

E & P Properties

The Planning Board went back to the Public Hearing at 8:05pm.

Peter Recused himself.

Kate opened the floor to Bill Doucet from Doucet Survey Inc., who was representing the E & P Properties for their lot line adjustment on Map 13 Lot 7-1 and Map 13 Lot 9. Mr. Doucet explained the plan to the board, and submitted a waiver from the town's lot shape regulation. Their intent is to exchange approximately 3.971 acres between the two lots. Taking 3.971 acres from Map 13 Lot 7-1, and adding it to Map 13 Lot 9 increasing the size of Map 13 Lot 9 to 10.03 acres. It was noted that Mr. and Mrs. Peterson own both lots in question.

Dylan did a review for the board and the only thing that he found was the lot shape was non-conforming for Map 13 Lot 7-1. He believes that the waiver is achievable, but the board should discuss. Kate read the waiver to the board, which asked to have the lot shape regulation waived for the lot line adjustment. The board went through the checklist for lot line adjustments and compared it to the survey.

Kate opened the meeting to the public. There were no public comments.

Joan made a motion to accept the waiver, due to the fact that the distance is far away from the frontage and any buildings and the clarity of ownership will not be compromised in any way. Bob seconded, all in favor.

Joan moved to approve the lot line adjustment, Bob seconded, all in favor.

Kate closed the public hearing.

New Business:

32 Osgood Road- Condex Units-discussion on zoning

Discussion on zoning- Joan explained that the lot is a grandfathered duplex and reminded the board that NH Department of Environmental Services sent a letter to the town because the septic design has 2 tanks. Kate called NHDES and their regulations indicate that a 2 tank septic is considered a subdivision.

Kevin expressed that the town's zoning book doesn't indicate regulations on condo's. Bob asked if the town doesn't say anything about condo's do we follow the State RSA? Bob expressed that it is also a change in single ownership to separate ownership, and if they had come to us, how would we have approached it. On Page 51 of the current zoning book is the definition of a subdivision. Dylan recommends that town council be addressed.

Mike Picard indicated that he has a site plan with limited areas and common areas addressed on it. He asked if he would have the board's approval of the subdivision. Mr. Picard expressed that the state had approved the subdivision of the septic. Bob asked if Mr. Picard had the condo documents for maintenance. That is not definite, and Mr. Picard will be responsible for that until the other condo is sold.

Kevin expressed that the Selectmen can't approve the building permit for the garage without knowing if it is a condo or a duplex.

Mr. Picard was originally told by a board member that he would have no problem doing the duplex as condos, if he had known he would have problems with the building he would have left it as a rental.

Mr. Picard explained to the board he didn't think he was doing anything wrong, and would have come before the board if he had known he needed to.

The board suggested that Mr. Picard fill out a Subdivision application showing existing features, new building footprint and the proposed garage.

Kate recused herself from the board for the next two discussions.

Sweet Baby Vineyard-

The board was asked by the Selectmen to draft a letter about their decision on the Sweet Baby Vineyard Home Occupation.

There was a discussion on the issue of the Vineyard being agricultural instead of a Home Occupation. Mrs. Eaton expressed that when they came to the town and asked how they should proceed they were instructed to file for a Home Occupation. They did not know that they could have been considered agricultural at the time.

Joan asked if Mrs. Eaton had any documentation that 35% of their grapes are being used. Dylan instructed the board that it would be good to have a written legal opinion from the Town Attorney on the issue. Mrs.

Eaton expressed that all wineries are agricultural in the state. She also expressed that she has some issues with the letter from the Selectmen that was sent to her, and the board expressed that she needs to bring those issues up with that board. The Planning board acted on the application that what was in front of them. Bob explained to the board that this is about a letter that we are supposed to give to the selectmen about the board's decision.

Mrs. Eaton asked if the 25% of the home is it the overall size of the home, or the size of the home at the time of the application. She was under the impression that if you added on to your home the 25% would then be of that new square footage amount. The board reminded Mrs. Eaton, that if there were substantial changes to the business they were to come back before the board.

Kevin has looked through the application and there is not an exact square footage on the signed approval. Peter read the application and the attached approval checklist that listed the 569 square feet, that was 25% of the home at the time of the application.

Mrs. Eaton did not realize that they could have done the winery under agricultural. Kevin expressed that he appreciates that they are in town and likes the small businesses.

Peter would like town counsel to clarify if 25% is on what is there at the time the application is granted, and if there are additions put on, would the 25% then increase. **Peter expressed that the board's opinion to the selectmen is to get a legal opinion; and to research the 25% issue.**

Kevin told Mrs. Eaton that the selectmen will be getting ahold of her about the agricultural RSA and the 25%.

State Driveway Permit for Review- 267 South Road- M3 L30

The State sent the driveway permit for 267 South Road to the town for review. The board does not have jurisdiction over the State Driveway Permitting, but they are allowed to comment to the state on any issues that they may know about.

Joan asked about a swale for the driveway and Kevin indicated that with the swale that is there it shouldn't be an issue, and there is a catch pond.

Peter expressed there is no drawing or map on it for the board to review; this is just the board's opportunity to provide input. Bob expressed again that this is not our jurisdiction, and Joan stated that the state is trying to be more cooperative with the towns.

The board's only suggestions would be to have a safe site distance, and no drainage into the roadway.

Kevin Rosencrantz left 8:24pm.

Donna Carter-

Question on previously discussed issue and if it was resolved.

The board had discussed that you could not go out of town, then back into town for a subdivision. Mrs. Carter was wondering if that was ever adopted in the zoning ordinance.

Bob found the regulation on page 86 of the current Zoning book under Scattered and Premature Subdivisions.

Rockingham Planning Commission.

Kate read the contract for the Town's Circuit Rider from the Rockingham Planning Commission.

Bob made a motion for Kate to sign the contract, Peter seconded, all in favor.

Dylan indicated that the board might need to revisit the amount allotted for the following year's budget. He indicated that there might be a slight increase for them to consider.

OLD BUSINESS:

Zoning Book Codification- grant information update

Still waiting to see if the town will be able to get matching funds.

Maps- Commercial District- continued to next meeting.

The Palmers did email the board that they would like to be included in the district still.

OTHER BUSINESS:

Hampson- The board reviewed the plan presented and Peter signed off on the approval as previously approved by the board.

The board will contact the engineer to clarify the lower access way and that it should be indicated on the plan. Peter will sign the plan when that is completed.

Postponed until August- FEMA Flood Maps- Robert Gustafson- explanation of benefits of the program; NFIP Flood Insurance.

Draft letter for yearly approvals by Zoning and Planning Boards-postponed

September Public Hearings for Road Frontage and Commercial District.

Approval of June 18, 2012 meeting minutes- next meeting

Next Meeting –August 21, 2012

Kate made a motion to adjourn, Peter seconded, all approved to 9:46pm.

Respectfully Submitted,

Kathleen T Felch, Planning Board Clerk