

**KENSINGTON PLANNING BOARD
TOWN OF KENSINGTON, N.H.
KENSINGTON ELEMENTARY SCHOOL LIBRARY
TUESDAY, OCTOBER 15, 2013
7:20 PM**

Approved-11-19-2013 (with amendment)

In Attendance: Glenn Ritter, Kate Mignone, Peter Merrill, Joan Whitney, Jim Thompson, Scott Lowell, Selectmen's Representative; Dylan Smith, Rockingham Planning Commission Representative; Bob Solomon; Michael Schwotzer, Alt, not voting

New Business:

Driveway Permit-Rosencrantz- 15 Highland Road

Joan Whitney called the meeting to order at 7:20pm to hear the first item on the agenda. The Driveway permit is for Wesley Rosencrantz on 15 Highland Road.

Mr. Rosencrantz and David Buxton approached the board to explain to them where the property and the driveway were. They also explained to them from a new septic design where the existing driveway is located. After the board reviewed the sketches and the property boundaries along with the copy of the septic design, they called for the vote.

Jim made a motion to accept, Joan seconded, and one abstained, all others in favor.

**PUBLIC HEARING
7:30pm
JOINING THE NFIP**

**Peter opened the public hearing 7:33pm
Special guest Jennifer Gilbert**

Peter open the public hearing at 7:33pm and explained to the people in attendance what the National Flood Insurance Plan is about and that it falls under the FEMA program. He also explained that the Planning Board has been working on this for over a year with help from Jennifer Gilbert from the OEP (Office of Energy and Planning). Kensington is one of the 22 NH Communities that doesn't belong to the NFIP. He explained that if you have property within the flood zones depicted on the maps that are displayed (FEMA Flood Zone Maps) than there is a potential risk of flooding on your property. If you are try to sell or refinance your home you will likely need to have flood insurance, if your property is in or close to the flood zone insurance would be possible through NFIP. There are rules and regulations that will go with the implementation of the NFIP. The public asked if there was a cost to the town and Peter informed them that there was no cost to the town to join the NFIP.

Peter asked Jennifer Gilbert from the OEP to address the public's questions on the NFIP.

Ms. Gilbert explained that FEMA just remapped part of the coastal area and Kensington did not belong to the NFIP at the time so they were not part of the remapping. They will stay with the 2005 maps from FEMA.

Janet Bunnell asked if it will be mandatory for people who live in the flood zones to have flood insurance. Ms. Gilbert explained it is up to the lenders. Kate explained that belonging will also allow others, who are not in the flood zones, to purchase flood insurance as well. Ms. Gilbert explained that the NFIP rates are standard throughout the country. Ms. Gilbert informed the people in attendance that the structures before May 17, 2005 will be impacted. It was questioned if there was any way to definitively find out if you are in the flood zone and Ms. Gilbert offered her assistance with the Granit system in finding out if a property falls within the flood zone. She did also explain that you have the option of doing a Letter of Map Amendment to have your property removed from the flood zone if you feel that you are not supposed to be in it. This will take a surveyor to find the base foot elevation of the property to prove that you are not supposed to be in the flood zone. A flood is designed by a flow of water over land; it can be from any source. Some lenders will determine that if there is any part of the property in the zone then the whole

parcel is considered in. Bob explained that the banks can request that you get the insurance whether the town belongs or not. The insurance is just more expensive if we don't belong.

Ms. Gilbert concluded with the web address of the site to see the FEMA maps and to be able to view your property and see if you are in the zone or not.

Go To

- [http://granitview.unh.edu/Flood Plains](http://granitview.unh.edu/Flood%20Plains)
- Tools
- Navigation tools
- Go to address

Residents in attendance were confused about how many people are actually in the flood zone. The board explained that there are 10 or fewer actually in the zone, but they wanted to alert the adjoining property owners as well.

Bob asked Ms. Gilbert to explain the construction regulation that the board will be voting on tonight.

She explained that the lowest floor has to be elevated 2 feet above the highest point of flooding.

Kensington is all flood zone A so they have no base foot elevation to go by. If you were to renovate your existing home by more than 50% you would then have to comply with the new FEMA regulations.

Russell Perry questioned the board to make sure that he understood the whole process and what the town was entering into. He did remember that FEMA had given aide to the town before for roads because of flooding, and that was when it was declared a national disaster by the President. Ms. Gilbert explained that if that were to happen without it being a National Disaster there would be no help allowed to the town or the individual residents for their homes or town buildings.

There was a brief break before the articles were discussed.

For subdivisions and site plans that involve land designated as "Special Flood Hazard Areas" (SFHA) by the National Flood Insurance Program (NFIP):

- A. *The Planning Board shall review the proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.*
- B. *The Planning Board shall require that all proposals for development greater than 50 lots or 5 acres, whichever is the lesser, include Base Flood Elevation (BFE) data within such proposals (i.e. floodplain boundary and 100-year flood elevation).*
- C. *The Planning Board shall require the applicant to submit sufficient evidence (construction drawings, grading and land treatment plans) so as to allow a determination that:*
 - (i) *all such proposals are consistent with the need to minimize flood damage;*
 - (ii) *all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and,*
 - (iii) *adequate drainage is provided so as to reduce exposure to flood hazards.*

Kensington Floodplain Management Ordinance

SECTION 1

PURPOSE

- A. *Certain areas of the Town of Kensington, New Hampshire are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Kensington, New Hampshire has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in this Floodplain Management Ordinance.*
- B. *This Ordinance establishes a permit system and review procedure for development activities in the designated flood hazard areas of the Town of Kensington, New Hampshire.*

SECTION 2

ESTABLISHMENT

- A. *This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Kensington Floodplain Management Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Kensington Zoning Ordinance, and shall be considered part of the Zoning*

Ordinance for purposes of administration and appeals under state law.

- B. *The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the Rockingham County, NH" dated May 17, 2005 together with the associated Flood Insurance Rate Maps dated May 17, 2005, which are declared to be a part of this ordinance and are hereby incorporated by reference.*

SECTION 3

GREATER RESTRICTION

If any provision of this ordinance differs or appears in conflict with any other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

SECTION 4

SEVERABILITY

Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 5

ENFORCEMENT

It shall be the duty of the Building Inspector to enforce and administer the provisions of this Ordinance in accordance with RSA 676.

SECTION 6

PERMITS

All proposed development in any special flood hazard area shall require a permit.

SECTION 7

OTHER PERMITS

The Building Inspector shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U. S. C. 1334.

SECTION 8

CERTIFICATION

- A. *For all new or substantially improved structures located in special flood hazard areas, the applicant shall furnish the following information to the Building Inspector:*
1. *The as-built elevation of the lowest floor (including basement) and include whether or not such structures contain a basement.*
 2. *If the structure has been floodproofed, the as-built elevation to which the structure was floodproofed.*
 3. *Any certification of floodproofing.*
- B. *The Building Inspector shall maintain the aforementioned information for public inspection, and shall furnish such information upon request.*

SECTION 9

CONSTRUCTION REQUIREMENTS

- A. *The Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding.*
- B. *All new construction or substantial improvements in a special flood hazard area shall:*
1. *be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,*
 2. *be constructed with materials resistant to flood damage,*
 3. *be constructed by methods and practices that minimize flood damages, and*

4. be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

SECTION 10**WATER AND SEWER SYSTEMS**

- A. Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area the applicant shall provide the Building Inspector with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- B. On-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

SECTION 11**BASE FLOOD ELEVATION DETERMINATION**

- A. In Zone A, the Building Inspector shall obtain, review, and reasonably utilize any base flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site plan approvals).
- B. In Zone A where a base flood elevation is not known, the base flood elevation shall be at least 2 feet above the highest adjacent grade.

SECTION 12**STRUCTURES**

The base flood elevation determined by the Building Inspector in Section 11 will be used as criteria for requiring in Zone A that:

- A. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation.
- B. All new construction or substantial improvements of non-residential structures must meet one of the following requirements.
 1. The lowest floor (including basement) shall be elevated to or above the base flood elevation; or
 2. Together with attendant utility and sanitary facilities, shall:
 - a. be floodproofed at least one foot above the base flood elevation so that below this elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.
- C. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- D. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:
 1. the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
 2. the area is not a basement; and
 3. shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that

they permit the automatic entry and exit of floodwater.

SECTION 13**RECREATIONAL VEHICLES**

- A. *All recreational vehicles placed on sites within Zone A shall either:*
 - 1. *be on the site for fewer than 180 consecutive days;*
 - 2. *be fully licensed and ready for highway use; or,*
 - 3. *meet all standards of this ordinance and the elevation and anchoring requirements for "manufactured homes" in Section 12.*
- B. *A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.*

SECTION 14**WATERCOURSES**

- A. *In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Building Inspector, in addition to the copies required by the RSA 482-A: 3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau.*
- B. *The applicant shall submit to the Building Inspector certification provided by a registered professional engineer assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.*
- C. *The Building Inspector shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources. If floodway data is available, all development located in Zone A shall meet the following floodway requirement:*

"No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge."

SECTION 15**VARIANCES AND APPEALS**

- A. *Any order, requirement, decision or determination of the Building Inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5. [In communities with no comprehensive zoning a special Board of Adjustment appointed by the Board of Selectmen.]*
- B. *If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law that:*
 - 1. *The variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;*
 - 2. *If the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result; and*
 - 3. *The variance is the minimum necessary, considering the flood hazard, to afford relief.*
- C. *The Zoning Board of Adjustment shall notify the applicant in writing that:*
 - 1. *the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and*
 - 2. *such construction below the base flood level increases risks to life and property.*

Such notification shall be maintained with a record of all variance actions.

- D. *The community shall:*

- 1. *maintain a record of all variance actions, including their justification for their issuance; and*
 - 2. *report such variances issued in its annual or biennial report submitted to FEMA's Federal*

Insurance Administrator.

SECTION 16 DEFINITIONS

The following definitions shall apply only to this Floodplain Management Ordinance, and shall not be affected by the provisions of any other ordinance of the Town of Kensington.

Base flood means the flood having a one-percent possibility of being equaled or exceeded in any given year.

Base Flood Elevation means the computed elevation to which floodwater is anticipated to rise during the base flood.

Basement means any area of a building having its floor subgrade on all sides.

Building - see "structure".

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operation or storage of equipment or materials.

FEMA means the Federal Emergency Management Agency.

Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a) *the overflow of inland or tidal waters, or*
- b) *the unusual and rapid accumulation or runoff of surface waters from any source.*

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

Floodplain or Flood-prone area means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

Flood proofing means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Functionally dependent use means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

- a) *Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;*
 - b) *Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;*
 - c) *Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or*
 - d) *Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:*
- i) *by an approved state program as determined by the Secretary of the Interior, or*

- ii) directly by the Secretary of the Interior in states without approved programs.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum to which base flood elevations shown on a community's Flood Insurance Rate Maps are referenced.

New construction means, for the purposes of determining insurance rates, structures for which the start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Recreational vehicle is defined as:

- a) built on a single chassis;
- b) 400 square feet or less when measured at the largest horizontal projection;
- c) designed to be self-propelled or permanently towable by a light duty truck; and
- d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Special flood hazard area means the land in the floodplain within the Town of Kensington subject to a one-percent or greater possibility of flooding in any given year. The area is designated as Zones A, A0, AE on the FIRM.

Start of Construction includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

Structure means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal:

- a) the appraised value prior to the start of the initial repair or improvement, or
 - b) in the case of damage, the value of the structure prior to the damage occurring.
- i) For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures that have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

Linda Blood asked if this was going to be as one article or two on the ballot. It was explained that this is a new process that as an SB2 town Kensington can now summarize the Article in the voting booth and have the whole article outside the booth for voters to read. Russell Perry asked how much of the wording was from the NFIP and how much was from the board. Ms. Gilbert and the board explained that it was suggested wording with the general guidelines for towns. Ms. Gilbert explained that 2 acres and 2 properties flooding is considered a flood.

It was also explained that when the ordinance is accepted then the town is also accepting to join the NFIP. There are four parts to joining; resolution signed by the selectmen; application; subdivision regulations and the flood plain ordinance. Once all these things are submitted to Jennifer Gilbert with the OEP then she will review them and send it off to NFIP. If the town goes to vote in March and does not vote for the ordinance then the town will not be able to join the NFIP. But if the board votes to move the ordinance to ballot then the ordinance goes into effect immediately.

Peter concluded the public comment by thanking those in attendance for their input and suggestions. There were roughly 25-30 people in attendance for the public section of the meeting. Peter closed the public comment portion of the meeting at 8:54pm.

Joan made a motion to approve the language for the subdivision regulations to be in affect now, Peter seconded, all in favor.

Joan moved to approve the language for the Flood Plain Ordinance and send it to warrant for the ballot, Kate seconded, all in favor.

OTHER BUSINESS:

Approval of September 17, 2013 meeting minutes.

Joan moves to accept the meeting minutes; Glenn seconds all in favor.

OLD BUSINESS:

Zoning Book- review

Dylan brought the definitions section Article 8.2 to the board's attention under the current zoning book page 20, to change that to incorporate the whole town, not just the residential district. He suggested that the board change that at the next board meeting scheduled and move the definitions to their own article. This will then have to be sent to the Selectmen to be included on the warrant for the March vote. Peter also reminded the members present that the abutter definition was amended as well. Public hearing will be in November 2013.

Joan moves to remove the language under Article 8.2 Definitions when used in this district the following terms shall have the meanings given to them in this section; and for it to become its own definition section in the zoning book; seconded by Jim all in favor.

Article 3.4 Removal of Ground Water and Mobile Homes need to be removed; and 4.3.5- Gravel Pits, Peter would like that one looked into, what is the history of the ordinance and research for the next meeting.

Next Meeting –November 19, 2013-PUBLIC HEARING

Joan made a motion to adjourn 9:31pm Joan, seconded by Jim, all in favor.

Respectfully Submitted,

Kathleen T Felch, Planning Board Clerk