

KENSINGTON PLANNING BOARD MEETING  
95 Amesbury Road, Kensington, NH 03833  
TUESDAY NOVEMBER 19, 2019 – 7:00pm  
Meeting Minutes - Approved 12/17/2019

In attendance: Therese Wallaga, Member; Mike Schwotzer, Member; Jim Thompson, Member; Robert Chase, Member; Mary Smith, Vice Chair; Christine Ouellette, Alternate Member; Vanessa Rozier, Selectman's Representative; Julie LaBranche, Rockingham Planning Commission

At 7:04pm, Mary called the meeting to order.

Pledge of Allegiance

NEW BUSINESS:

1. Possible ordinance compliance issues of recently installed signage at Country Brook Café

- The Board discussed the steps for a site plan amendment and a ZBA variance. The correct protocol would be for the owner to request a variance through the ZBA. The owner has been notified that he is exceeding the signage area allowed. Vanessa will continue to follow up on this matter.

2. Discuss / generate a list of all non-conforming buildings / businesses in town

- There was discussion on non-conforming buildings/businesses in town. Mike feels it is necessary to have a list as a resource because other governing bodies could be making decisions on non-conforming uses without realizing that a property is non-conforming. Examples of non-conforming properties were provided. Julie explained that another Planning Board she works with generated a survey sent out to owners of non-conforming use properties to generate a baseline for the town that can be properly documented. Each year following the initial survey, those owners are sent a follow up form to report if anything has changed with the non-conforming use. Julie said she could provide an example of the survey. In order to create the list, the Planning Board would need assistance from the Assessing Office. Mike will work on the first draft of the list.

3. Ricci Construction- 825 Development- Release of funds

- The Board reviewed and discussed a request for Release of Funds from Ricci Construction for 825 Development (Tannery Way). Mike said that last month he was prepared for this discussion by Road Agent David Buxton and Dave said he would like 5-10% held as he pointed out that things can happen in two years beyond annual maintenance. Mike recommended withholding \$13,000.00. The Board discussed concerns for standards with regard to how long funds can be withheld without the Board making a decision on it. There was a previous site visit attended by Julie, Vanessa, Dave Buxton – Road Manager, Brian Knipstein -Contractor, and Christian Smith – Town Engineer where the amount to be withheld for maintenance was briefly discussed. Dave Buxton also had sent a follow up email. Vanessa suggested releasing a portion and continuing to withhold a portion. Julie recommended withholding no more than \$9,000.00. Robert suggested that the Board withhold \$12,000.00 based on the statement in the letter from Ricci Construction referencing \$6,000.00 for annual maintenance for two years. After discussion by the Board, Robert suggested delaying any decision until next meeting when this statement could be clarified. Mike and Vanessa disagreed with any further delays. It was suggested to carefully consider how the release is worded so that it is not only for snowplowing, but for annual maintenance and any necessary repairs.
- **At 7:45pm, Robert made a motion to release the bond to Ricci Construction, with the exception of \$12,000.00 for purposes of annual maintenance and incidental repairs. Mike seconded. All voted in favor.**
- Vanessa suggested that the Board consider a process to ensure that the plan set is complete at the point of the finished project. Mike said that once the Planning Board has approved and signed off, it is then in the hands of the Board of Selectmen which acts as the enforcer. Julie suggested that a closeout checklist could be helpful. Vanessa will coordinate with Julie on this.

4. 152 Drinkwater Road- appeal to ZBA on decision.

- Julie explained that she had been contacted by Mr. Roth's attorney stating that the applicant is filing an appeal with the ZBA to remove all of the conditions that have to do with wetland violations because the applicant feels

that the Planning Board misapplied jurisdiction of the Town Wetland Ordinance by tying it into the Site Plan. Julie summarized the appeal for the Planning Board. Julie said that she reached out to the NH Municipal Association for guidance on whether or not the Planning Board was at fault by including the wetland violation issues as conditions of approval. The NH Municipal Association told her that was within the rights of the Planning Board to include those conditions relating to the wetland violations. Additionally, the NH Municipal Association was asked if the Planning Board can take part in the ZBA hearing to provide comments, to which the answer was yes. The Planning Board recommended that a memo be drafted presenting the evidence that lead to the Planning Board's decision and a representative of the Planning Board attend the ZBA hearing to answer any questions. There was discussion on how many Planning Board members would attend the ZBA hearing, because if a quorum attended, the meeting would need to be noticed. The Board discussed possible reasons why the applicant had initially agreed to the conditions but is not pursuing an appeal for some of the conditions. **At 8:10pm, Mike made a motion that Robert represent the Planning Board at the 12/3 ZBA hearing. Jim seconded. All voted in favor.** There was another brief discussion on if the 12/3 meeting should be posted for the Planning Board. Town counsel will advise on this.

#### 5. Heritage Commission

- Mike asked if the Board of Selectmen had any feedback on him representing the Planning Board at the Heritage Commission. Vanessa said it would not require an appointment. Mike will attend the Heritage Commission meetings.

#### OTHER BUSINESS:

##### 1. Water Testing – possible addition to ordinances

- Vanessa said the Board of Selectmen have put together a draft information sheet for water quality testing week, but the topic has been put on hold until the Spring due to budget season and end of year tasks.

##### 2. Building Permit section of zoning possible updates to comply with new code regulations.

- There is currently no mention of what version of building code is being applied to the Building Ordinance in Article 8 of the zoning book. The State of NH updated the Building Ordinance to reflect 2015 code. It was discussed that there should be a statement included in the zoning book to say that The Town of Kensington is implementing the State Building Code which was adopted in 2015, to adopt the International Building Code standards.
- Vanessa said they received a letter from Building Inspector Norman Giroux regarding building permitting. One of his major concerns is that Kensington does not require a plumbing permit, and if it does need to be inspected there is no fee and no paper trail. He was also concerned that there are no permits required for a shed less than 120 square feet and many ZBA hearing a related to sheds within a setback. She thought this could be a good time to discuss adding regulations to assist with these concerns. She added that the Board of Selectmen is hoping to address fines and fees. The Board of Selectmen is currently the code enforcement but there is no written penalty/fine in place for non-compliance. This may be a good time to discuss worth adding into regulations for that. At this point, there is limited time to get something together for warrant article. Julie proposed that any free-standing structure would need a permit. It suggested that there should be some minimum such as cost, or size (6'x6' was suggested). The Board will continue their discussion next month.

#### Moulton Ridge Road Culvert update

- This matter has been resolved and can be removed from future agendas. The town could be asked in the future to do site restoration due to the erosion that occurred.

#### Meeting Minutes to approve October 15, 2019

- The Board suggested changes and will review an updated draft of the minutes at the next meeting.

#### Build Out Analysis

- Vanessa explained that the Board of Selectmen did not feel comfortable adding this as a line item to the budget and would like to have a warrant article for that. The Board of Selectmen is seeking the Planning Board's support. At 8:50pm, Mike made a motion that the Planning Board lend its support to the Board of Selectmen regarding the warrant article for funds for the Build Out Analysis. Therese seconded. Vanessa abstained. All but Vanessa, who abstained, voted in favor.

The next meeting will be December 17, 2019 at 7pm in the Town Hall.

At 8:58pm, Jim made a motion to adjourn. Mike seconded. All voted in favor.

Respectfully submitted,

Chelsea Lalime