

**KENSINGTON, NEW HAMPSHIRE
KENSINGTON PLANNING BOARD
WEDNESDAY, June 15th, 2022 6:30 P.M.
At Kensington Town Hall 95 Amesbury Road, Kensington, NH
Meeting Minutes- Draft**

In Attendance: Vanessa Rozier, Chair; Mary Smith, Vice Chair; Mike Schwotzer, Member; Bob Solomon, Selectmen's Representative; Marty Silvia, Member; Josh Preneta, Member; Glenn Greenwood, Planner.

Vanessa called the meeting to order at 6:30pm.

Vanessa noted there would be 30 minutes for each application.

PUBLIC HEARINGS:

Vanessa read the following:

Linda Buxton Trust c/o Buxton Family Realty Trust with a physical location of 194 Drinkwater Road, Kensington, NH further identified as Map 12 Lot 39 has submitted a Subdivision Application for a 2-lot subdivision in accordance with Article III Subdivision Regulations for the Town of Kensington.

At 6:31pm Mike made a motion to reopen the public hearing. Mary seconded. All voted in favor.

Vanessa noted that there had been correspondence since the last meeting with the applicant and legal counsel and explained the land had been subdivided into a lot that has not been approved. She noted that the applicant should determine if moving forward there should be a co-application or letter on behalf for the application from the applicant. Mike noted a letter from Charles Bauer that advises the applicants be notified of 5 points. He felt that these points should be instituted and the hearing continued until the next meeting. Mary also felt it should be continued. Dan and Emily Zibinskis, the current owners asked for understanding on how to act in authorization for parcel they don't own. Vanessa felt that monetary obligation would be between the owners and that the town would have its own requirements. Mike noted that the Board had been unaware of the sale of the house. He noted that the transaction should not have occurred in that sequence and the Board was trying to find the best method to correct it. He noted that the permission would be for the whole property so that the subdivision could take place. Vanessa noted that a letter of authorization could be specific to duties or plan but the town couldn't know all the possible outcomes for the letter of authorization. The applicant asked about recording of subdivision, which was noted would be recorded by the town at the registry if approved. Mary asked who owns the cemetery property. Vanessa suggested seeking legal counsel. The Board would like the applicants decide how to move forward with the application.

At 6:48pm Mike made a motion to continue the public hearing on the Buxton case until Wednesday, July 20th at 6:30pm. Mary seconded. All voted in favor.

At 6:49pm Mike made a motion to close the Buxton public hearing. Mary seconded. All voted in favor.

Vanessa read the following hearing aloud:

Linda Zammer, Trustee of Three Hobbs Road Realty Trust with a physical location of 2 Hobbs Road, Kensington, NH further identified as Map 13 Lot 15 has submitted a Subdivision Application for a 2-lot subdivision in

accordance with Article III Subdivision Regulations for the Town of Kensington and in compliance with Article II Definition of a non-buildable lot.

At 6:50pm Mary made a motion to reopen the public hearing for Linda Zammer of 2 Hobbs Road. Mike seconded. All voted in favor.

The applicant noted that at the last hearing the Board asked to straighten the proposed property line to be perpendicular to the other lot line, which has been changed. He also made a note on the plans that describes the intent of this plan is to subdivide lot 15 into two lots and lot 13 shall always be conveyed with 13-20 and be non-separable. The non-buildable lot would be in perpetuity. Mike felt that the Boards requirements had been met. He noted that the new buildable lot when conveyed will be a separate deed which will leave the non-buildable lot and the property across the street. Vanessa stated that on note number 1 it would be non-buildable lot and not non-building lot. Vanessa read the definition of non-buildable lots. Mike felt it should read non-buildable on note 1 and on the lot on the plan. Monumentation will need to be set prior to creation of a mylar. Wetlands were discussed and Mike stated they were noted and delineated.

At 7:05pm Mike made a motion to approve the 2-lot subdivision proposal for 3 Hobbs Road Realty Trust referred to as tax map 13 lot 15 located at the intersection of Hobbs Road and North Haverhill Road with 2 conditions:

- 1. That on the plan the words non-building in 2 places be changed to non-buildable.**
- 2. Certification of monumentation be supplied prior to the signing of the mylar.**

Josh seconded. All voted in favor.

At 7:06pm Mike made a motion to close the public hearing. Mary seconded. All voted in favor.

Vanessa read the following hearing aloud:

Marian Lord, James Cole, and Alex Cole with a physical location of 89 Stumpfield Road, Kensington, NH further identified as Map 7 Lot 12, have submitted a Subdivision Application for a 2-lot subdivision in accordance with Article III Subdivision Regulations for the Town of Kensington.

Vanessa read through the checklist which she noted she reviewed before the meeting. It was noted there was a requested waiver for soil study and lot size by a soil scientist. The applicant noted the conservation easement was a grassy area that had 4K reserve pits noted on the plan. Vanessa asked if the Board was comfortable with Glenn noting the plan was in compliance with the checklist.

At 7:11pm Mike made a motion to open the public hearing and accept the application for Lord and Cole for a 2 lot subdivision on Stumpfield Road as complete. Mary seconded. All voted in favor.

Mr. Quintal discussed for the applicant the plan for the application. He noted there is a conservation easement that was recorded in 2006. The new plan would subdivide the homestead property off for a different member of the family which would be separate ownership for the easement and property. He noted that the easement stays the same, the lot that is created has frontage and proper soils and has a well and septic. The applicant is seeking a waiver for 3.3.3.g.3 for distance between monuments not to exceed 400 feet. He noted that there were mostly stone walls and barbwire and to survey and monument those lines would be costly and time consuming. He was also seeking a waiver for 3.3.h soil

based lot size determination. Mr. Quintal noted that the remaining land is relatively flat with less than 8% slope and that test pits were done and he feels are consistent across the site. State subdivision approval was noted as received. He noted that the plan should have the tax map and lot. Mary asked about the setbacks for buildings. Glenn noted that the prior lot was excluded and the lines would stay the same. Mike discussed waiver for monumentation and noted that the lot that was being noted would be the smaller lot being created rather than the whole lot. The Board discussed the land as being non-buildable due to conservation easement.

At 7:24pm Mike made a motion to grant the first waiver regarding 3.3.3.g.3 for the 438 foot line to not require monumentation at the 400 point due to the fact the line has existed and the endpoint has been found and marked and the conditions of this lot carry out the spirit and intent of the regulation. Josh seconded. All voted in favor.

At 7:25pm Mike made a motion to approve the second waiver for subdivision section 3.3.h regarding soil based lot sizes due to fact house parts of the subdivision was approved for a septic system and the rest of the land is in conservation and is 41 acres and therefore it will be more than large enough to carry any system and meet specific circumstances related to the subdivision and the waiver would carry out the spirit and intent of the regulation. Mary seconded. All voted in favor.

The Board noted the that the new map and lot designated of the subdivision should be on the plan. Discussion about the conservation easement took place. Vanessa noted that the lots conformed and there was discussion about what made the lot non-buildable. Glenn felt that this would fall under non-buildable lot. It was noted the conservation easement prevents future development. Glenn noted that the plan would have had to show more details. He felt that the Board should go on record that they are using the non-buildable lot definition. Glenn discussed ownership and the use

At 7:43pm Mike made a motion that to approve the subdivision for Marion Lord, James and Alex Cole of 89 Stumpfield Road for the 2-lot subdivision of tax map 7 lot 12 with the following conditions:

- 1. The two waivers to be listed on the final mylar that will be supplied to the engineer.**
- 2. New map and lot will be designated on the plan.**
- 3. Surveyor stamp is required on the final mylar.**
- 4. State septic approval number be put on the final mylar.**

This is all being done since the creation of the larger lot complies the with zoning ordinance amendment passed in 2022 that specifically allows the creation of non-buildable lots for the lot in perpetuity to remain open space.

Mary seconded. All voted in favor.

At 7:44pm Mike made a motion to close public hearing. Josh seconded. All voted in favor.

Vanessa read the public hearing for:

Arthur Bonnevie with a physical location of 10 French's Lane, Kensington, NH further identified as Map 11 Lot 40-8 have submitted a Conditional Use Permit Application for an Accessory Dwelling Unit in accordance with Article III, Section 3.2.3 of the Zoning Ordinance for the Town of Kensington.

Vanessa read through the checklist. Vanessa noted there is proof of the adequate existing septic. Vanessa noted there wasn't a typical plan for the lot showing setbacks and abutters as was necessary. It was noted there were abutters listed but not a plot plan. The Board discussed tax map requirements. Glenn felt that it would be good to see the septic plan.

Glenn felt that it should be accepted. The applicant described the living space. Josh asked if there was no change in building should the Board require a site plan. Glenn described other town's processes. Bob asked if the Board would be setting precedent. Glenn felt that if in the instance of an internal structure would be comfortable. This would be for an attached ADU completely within the building that includes ample parking.

At 8:08pm Mary made a motion to accept the application as complete and open the public hearing. Josh seconded. All voted in favor.

Mike noted that there are two pieces of the basement involved. The Board discussed what they felt was a discrepancy between the area on the tax card and the plan that was provided by the applicant. The applicant noted the mechanical room and the stairs were not part of the area, and described to the Board what area would be used. The Board discussed the living area as being greater than the 900 square foot maximum. Glenn noted that the size and septic are outstanding. The Board could not substantiate the size. Vanessa noted the septic was in operating order and asked how many bedrooms the septic is designed for. The applicant stated 4. Mary asked how many were upstairs, the applicant stated 3. Glenn noted that the bedrooms are not the only feature is not the only anticipated septic capacity for bedrooms which would be 4. The Board discussed with the applicant what was necessary for adequate septic. It was noted the ADU needs to be 900 feet or less and have evidence from septic inspector that it is adequate for residence and ADU.

At 8:27pm Mary made a motion to continue the public hearing for 10 French's Lane until Wednesday, July 20th. Mike seconded. All voted in favor.

Vanessa read the following hearing aloud:

Vertex Towers LLC on behalf of Kevin M. Rosencrantz, with a physical location of 184 South Road, Kensington, NH 03833 further identified as Tax Map 2, Lot 2 is requesting a Site Plan Review for a telecommunication tower in accordance with Article IV Site Plan Review Regulations for the Town of Kensington as well as a Conditional Use Permit in accordance with Article V Special Use Regulations for the Town of Kensington for the same purpose.

Vanessa read through the checklist.

At 8:35pm Mike made a motion to open the public hearing for a site plan and conditional use permit at 184 South Road for a communications tower. Mary seconded. All voted in favor.

The applicant discussed their application and described towers they had developed throughout the area. They described a six-acre parcel in the residential district where there is an existing tower. The new tower would be next to the current tower. The applicant is requesting a waiver for the telecommunication ordinance and for Section 5.1.7.D.1.b for limitation of towers within a quarter mile of other towers. They are also seeking a waiver for Section 5.1.8.C.2 federal regulations for environmental prior to planning board approval. The applicant felt there would be no impact on current lot. The condition of approval to provide before construction was discussed. Glenn felt it should be a prior existing non-conforming use and to not seek waiver or variance from the zoning board. The applicant stated they are not building a new driveway and will be utilizing gravel accessway. The applicant described the need for mobile telecommunication access and described the tower as being visually similar to the existing tower. Bob asked where the tower was and the applicant described that it would be a 50x50 compound near the building approximately 346 feet from South Road. The applicant described the compound as being set back behind the building with fencing. It is a monopole that is 180' in height with the ability for different companies can attach to the tower. The existing tower is 160'. He described it as a low power output and as safe by FCC standards. The construction would take approximately 6 weeks and the applicant noted that the Federal Government states that the Board can say no but it would have to have good reasoning.

Glenn asked about the fall mechanics. The applicant described that the tower folds when stressed and collapse onto itself. He stated that the towers were designed specifically to the site.

Vanessa asked Glenn to walk the Board through the use waiver. Glenn noted that the regulation states there are no towers allowed in the RA zone per section 5.1.5.A.1. The existing tower was not built with a variance. Glenn felt that the waiver could apply to the conditional use permit on. Glenn felt that the ordinance allowed the other waivers. Glenn felt the use has already been permitted and noted that the use is allowed by the fact that there is a tower already there. Bob asked about the quarter mile waiver for a separate tower. The purpose was to allow for collocation and consolidation. Mary asked if the current tower was structurally sound. The applicant stated it was for what was existing, but it was overstressed. The applicant described a program called FirstNet where AT&T gets to use the frequencies but it also allows dedicated use for public safety.

Glenn described conditional use versus variance. The applicant felt that the telecommunication provision felt that the waiver provision gives authority to the planning board if its in the best interest of the town. Glenn discussed federal regulation versus local ordinance. The applicant noted the commercial district and the location of the tower. The applicant stated they were trying to be expeditious. Josh felt that there should be a variance. Mary felt there should be a conditional use permit.

At 9:21 Mary made a motion to allow for the process of a conditional use permit for the wireless tower used as per language in section 5.1.5.A.1 in that this is an expansion of an existing non-conforming use and to allow this under this paragraph. Bob seconded. Mike and Josh opposed. Marty, Bob, Vanessa and Mary were in favor. The motion passes.

At 9:22pm Mary made a motion to close the public hearing. Mike seconded. All voted in favor.

UPDATES ON PRIOR BUSINESS:

Justin and Marty have finished a draft of the questions for the town survey. They wanted to increase the percentage of people that take the survey by keeping length of survey down. The Board will review and discuss in more detail next month. Josh felt there should be a special committee or group.

Glenn described Robert Pruyne's email describing his reasoning for items on the buildout analysis and will send an email relating these comments. Vanessa is working on the subdivision regulation and edits and will review at the next meeting.

At 9:32pm Mike made a motion to approve the minutes of May 18th as submitted. Josh seconded. All voted in favor.

Mike read aloud the amended meeting dates and times in accordance with Article II, 2.1.g, Rules and Procedures and moved to amend Article II 2.1.c.1 Meetings by deleting first sentence and changing dates and times to read "regular meetings should be held at the town office meeting 6:30pm on the third Wednesday of the month."

At 9:33pm Mike made a motion to adjourn. Josh seconded. All voted in favor.

Next Regular Monthly Meeting: Wednesday, July 20th, 2022 at 6:30pm

Respectfully Submitted,

Andy Clarke