

**KENSINGTON PLANNING BOARD  
TOWN OF KENSINGTON, N.H.  
KENSINGTON ELEMENTARY SCHOOL LIBRARY  
TUESDAY, FEBRUARY 17, 2015  
7:30 PM  
Meeting Minutes-Approved 3-17-2015**

**In Attendance:** Glenn Ritter, Michael Schwotzer, Jim Thompson, Kate Mignone, Joan Whitney, Vice Chairman, Peter Merrill, Selectmen's Representative. Julie LaBranche, Rockingham Planning Commission Representative.

In Attendance: Chris Northrop the Unitil Representative and two residents.

Joan called meeting to order at 7:31pm, and read the following to all present.  
The following notice was read to all those in attendance.

**PUBLIC HEARING**

Notice is hereby given of a public hearing to be held by the Kensington Planning Board on Tuesday, February 17, 2015, beginning at 7:30 p.m. at the Kensington Elementary School Library, 122 Amesbury Road, Kensington, NH. The purpose of the hearing is the following:

- 1) **For the Local Utility Company Unitil to remove and trim trees on Kensington's Scenic Roads; Trundlebed Ln, Muddy Pond Rd (whole road), Stumpfield Rd, Wild Pasture Rd (southern half), Highland Rd, New Boston Rd.**

Pursuant to RSA Chapter 231:157 and RSA 231:158. Public Notification is required on Scenic Roads Within Kensington pursuant to Chapter II, Article 5.1a of the Zoning Ordinance and Land Use Regulations. Full copies of the trees to be trimmed are available at the Town Offices located at 243 Amesbury Road.

Mr. Northrop explained that last year was about removing hazard trees and this year is more about trimming. There are a total of 20 hazard trees to be removed from Kensington's Scenic Roads. There were

no comments about the trimming from the public. Kathy informed the board that there is one comment from a resident on New Boston Road through email. The resident just wanted to make sure that they were contacted prior to any trimming being done. Mr. Northrop explained to the board that the homeowners are notified prior to any cutting taking place. **Kate motioned to approve the proposed trimming/cutting on the Town's Scenic Roads, Mike seconded, all in favor.**

**New Business:**

**Peter Rizzo-** 135 South Road- Question on combined lots from previously approved subdivision.

Kathy relayed to the board that Mr. Rizzo would not be in attendance, and that the information emailed to the board was emailed to him as well. The Zoning Book from the 1986 era stated that the frontage requirements for that time were 150 foot frontage, and soils testing would have also needed to be done to be considered a buildable lot. Mr. Rizzo had called and wanted the board to know that he was going to be looking into legal representation on the lot issues.

Joan recapped the discussion from last meeting, and asked that Kathy keep a copy of the zoning in a file with this issue. Kathy asked if there were any comments to relay to Mr. Rizzo. She explained that the board did not see any approvals for the added acreage to be a building lot. When the lot was created there was zoning in place and the lot did not meet those requirements for a buildable lot. Peter's interpretation was that they did not meet the frontage requirements back when the lot was created, and would have had to appear before the Zoning Board of Adjustment for a variance to the frontage requirement. Mike explained that the developer made the subdivision with all conforming lots containing 150 foot frontage. This is not a building lot because it does not meet zoning requirements. He does not believe that the Planning Board can render a decision on this issue because that decision was made when the subdivision was approved. Once the plan is recorded that is the final decision, and all that the Planning Board can say. Mr. Rizzo does have a venue, the Zoning Board of Adjustment to debate the question of it being a building lot. This board researched the ordinances and found that 150 foot frontage was the requirement when the subdivision was approved. It does seem that the intention at the time of the subdivision was to combine the two lots. Peter

expressed that there is no further action required from the Planning Board. Mike expressed that he is a member of the ZBA and because of the discussion and thoughts on this issue he will recuse himself. Julie explained that he offered an opinion and fact finding so no decision has been made. Mike would like the Board of Selectmen notified in case there is a building permit pulled for this property. Peter would also recommend that this information be passed on to the Town Counsel, because they had directed the Selectmen to send this to the Planning Board. He is unsure if this was the correct form of action, but it did cause the due diligence to take place in finding out the zoning from that time period. He would like Town Counsel notified of the board's findings and response.

### **Agricultural Uses:** Update on local farm stands-

Kathy passed out Lynne's email to the board. This was a webinar that took place through the NHMA on local agricultural regulations. Joan believes that this looks like it applies to code enforcement through the Selectmen. Peter explained that this is true, but if there was an extension or expansion of use that would be presented to the planning board for site plan review. Kathy explained that one of the points in the presentation was for the town to have a copy of the Best Management Practices on Agriculture from the State. If the local agricultural uses followed the plan laid out there it would be beneficial. Joan brought up a case study and that if the Town had silent regulations or no agricultural zoning in the town, that certain uses would be allowed by state statute. Joan explained that this would be true for not only agricultural, but for other issues that are not in our zoning. Kate expressed that the agricultural RSA's do not give the towns any real way to enforce. Peter would like to know if there is a contact in the state for the towns to go to. Joan appreciated that Lynne did participate in the webinar, and forwarded the information to the boards. Mike explained that the scope has changed for the local farm stand, and that they should have come for a site plan review. Peter agreed that a change or expansion of use would have to come before the planning board for site plan review. The motivation to have this looked into was the instance of an expansion or change, what would the process be. Kathy asked that if they were to come for a site plan review is it the whole parcel? Kate explained that the board would go back to the original use of what the Selectmen approved. Mike explained that if you look at the regulation there should have been a site plan review to go by. Peter would like to know who the expert is at the state level and see how other towns regulate agricultural uses within their towns. Joan asked about the septic design as well, and if they are having large numbers should that be looked at. Julie asked if anyone has ever questioned the 35% of the sales. Joan explained that the local farm did not originally meet the 35%, but they are close now. Julie explained that there are items sold that are not related to the farm. Kathy explained that the owners had other farms, and that they were selling products from them as well, which would qualify as part of the 35% needed. Peter stated he does not want to discourage the agri-tourism. He just wants to make sure that the boards understand what it means, and what the Selectmen can and can't enforce. Julie explained that there are a lot of examples that are pushing the envelope on the issue. Joan thinks that the board should be aware of some of the things within this presentation.

### **OLD BUSINESS:**

#### **Crafting of the Storm Water Ordinance.**

Julie passed out an example to the board for them to review and see if it would work for the Town. The site plan review regulation threshold in this example is:

***Development and redevelopment project which disturbs more than 5, 000 square feet and less than 100,000 square feet, or if within 100 feet of subsurface waters disturbs more than 2, 500 square feet.***

This is for a checks and balances for the developer to make sure that the storm water is being retained on their property. Peter asked if someone was doing 1,000 feet or more building permit, would this permit trigger the storm water ordinance, and have the individual come before the planning board. This will only affect commercial or non-residential development. Mike commented that under the subdivision regulations there is a plan to retain the water on the property. The board has reviewed these kinds of issues within the subdivision regulations, but there is not anything in the site plan review. Joan would like to add that as the standards change it will be updated so that it will reflect the current data. Julie can incorporate that into the working copy for the board. Joan asked if East Kingston has used this much, and Julie explained that it has been used a couple of times. Mike would not want this to apply to the individual existing lots, as the drainage is already present.

Peter would like to see a seminar within the Town for an example, the Library, School, and Town Hall. Julie will do a working copy for the board for next meeting with the changes the board suggested.

### **OTHER BUSINESS:**

#### **Regulations for Plug-in Areas for Electric Cars:**

Joan explained that she would like to see plug-ins for cars in public areas; she suggested the store or restaurant as examples in Town. She would like to see the town have some regulations on this so when it does become an issue the Town will be ready. Joan explained that there is State money available to help with the cost of installing them. Mike asked if she had any source material, and Joan will get the sample ordinances.

#### **Kuegel Pit-**

Peter brought up that the Selectmen discussed Mr. Kuegel's Pit at the meeting last night. Peter explained that the reclamation had a specific plan that was to be followed and was agreed upon. He wanted to make the board aware that the reclamation plan is going to need to be reviewed to make sure it is complete to the planning boards' satisfaction. Mike explained that with the closing of the Kimball Pit they had one specific person that came down from the state, and they were the authority as to the final verification that the pit had been reclaimed. He believes that the state should be the last one to determine that the pit has been reclaimed to the state standards. Peter explained that there are specific agreements that were made through the courts, which have to be followed. Mike suggested that the Assessing Company should give input on the situation. Peter wants to make sure with legal that the opinion that they received will apply to the agreements made with Mr. Kuegel. Mike explained that the Selectmen can deny Mr. Kuegel's request to remove the Commercial status, and that he has the right to file for the abatement after April 1, 2015, or the first tax billing in July. Kate believes that this will give the Town time to have a Planning Board member, Town Engineer and possibly the State inspector time to inspect once the snow is gone.

#### ***Approval of January 20, 2015 meeting minutes.***

***Mike made a motion to approve as amended, adding when Mike and Joan switched chairman positions, Jim seconded, all in favor. Glenn abstained.***

Mike commented that there are three terms ending in April.

Michael Schwotzer, Alt.- Mike would like to be reappointed for a 3 year term as Alternate.

Jim Thompson- Jim would like to be reappointed for 3 year term.

Robert Solomon- Bob will be contacted to find out his wishes on his expiring term.

#### **Next Meeting –MARCH 17, 2015**

Joan made a motion to adjourn at 8.48pm, seconded by Glenn all in favor.

Respectfully Submitted,

Kathleen T Felch, Planning Board Clerk