

KENSINGTON, NEW HAMPSHIRE
KENSINGTON PLANNING BOARD
TUESDAY
April 19, 2016
7:30 P.M. AT THE
KENSINGTON ELEMENTARY SCHOOL LIBRARY
122 Amesbury Road
Meeting Minutes-approved as amended June 21, 2016

In Attendance: Jim Thompson, Chairman; Julie LaBranche, Rockingham Planning Commission Representative; Kate Mignone; Michael Schwotzer; Bob Solomon; Peter Merrill, Selectmen's Representative.

Others in Attendance: David Buxton, Road Manager; Scott David; Dotty Milbury; Bill Buxton; Monique Martell; Richard Martell; Norman Giroux; Lars Larson; John Bernier; Jane Bernier; Alfred Felch; John Ricci; Doug Armstrong;

Jim opened the meeting at 7:30pm.

Jim adjusted the agenda to move the driveway permit to the beginning of the agenda.

Driveway Permit

Hoosac Road-Conditional Use Permit approved 4/17/2012

Dave brought up the driveway permit for 9 Hoosac Road, the existing contours are cloudy and it is not clear the percentage of slope from Hoosac road to station 100 on the plan. Dave did a drive by on the site to see if there was a location indicated as to where the driveway comes off of Hoosac Road and there has not been anything identified on the lot. It was clarified that the grade is 4% on the part of the plan that Dave was given with the application, and it is unclear what the grade is all the way down to Hoosac Road. Dave explained that Kathy had a second plan, but it does not show where the driveway comes out on the lot.

Mike made a motion to deny the application for a driveway permit for 9 Hoosac Road, based on the lack of information being presented to the board. Bob seconded, all in favor.

PUBLIC HEARINGS:

The Kensington Planning Board will hold a Public Hearing on Tuesday, APRIL 19, 2016 at 7:30pm at the Kensington Elementary School Library, 122 Amesbury Road, to vote on the following:

1. Scott David and Tony David, 21 Amesbury Road, Kensington, NH, M14, L26, for a Site Plan Review for a Home Occupation, in accordance with Article IV, Section 4.3 of the Kensington Zoning Ordinance. The applicants propose to operate a Cosmetology business from their residence.

Jim read the above to all present, and explained that this application had been continued because ZBA approval had not yet been obtained. Mr. David received approval on April 5, 2016, so the application will proceed.

Mr. David was asked to explain the application before the board. He reiterated that he just obtained the approval from the ZBA and that it is a permitted and allowable use.

Kate asked what the hours of operation would be and Mr. David responded that it would be Monday-Sat 8-8pm, and that he is asking for those so that he won't have to come back in the future to amend the hours of operation. There is space for parking in front of the garage area.

Jim asked Mr. David to approach the board and explain the different buildings on the lot. The septic was questioned and Mr. David explained that the state will come in and make an inspection and tell him what products are acceptable. The product will be thrown in the regular trash there is no dumpster at this time. Mike asked for the ZBA decision, and read it to the public.

1. Utilize a maximum of 600 square feet
2. No sign
3. Hours of operation will be 8am-8pm; Monday through Saturday
4. Maximum of two client cars on premises at any one time
5. No employees
6. Site plan review required of the Planning Board
7. If any change in the nature of the grounds the applicant will return

Peter expressed that the board will have to designate where the parking will be. Bob explained that there is normally a site plan that the board would be looking at that shows measurements, would they have to request a waiver of the Site Plan. Mike explained that you can't waive a requirement of the ZBA, and it is the board's decision to decide what is needed for the site plan review. There is nothing that Mr. David could find that defines what should be on the site plan, or defines the specific type of plan. Julie asked what else they would need to see on the site plan other than what they have. Kate asked if the board should ask where the septic and the well are located on the property. Mr. David showed the board the septic plan that stated where the well and septic are located. He reiterated that the state will come in and have a whole other permitting process. He talked to the state and they stated that all Cosmetology shops are use organic and green materials that are acceptable to the state permitting. Doug Armstrong asked what chemicals are used. Mr. David responded that there is an MSDS sheet that they will have to provide. The state will come in annually and inspect. There was some conversation in the public area and the Jim asked that all questions be addressed to the board. The Board has a site plan review format that they will be using. Dave Buxton asked about chemicals and the hazard that may go into the septic, one of the precautions used is the zable filter that is put in the tank that filters anything that enters the septic tank, they can be removed and cleaned.

Jim went through the checklist for the Home Occupation Site Plan Review.

The parking was not designated on the plan, so Mr. David designated the parking area on the plan for the board.

Jim asked if there were any other abutters that have any comments or questions.

Doug Armstrong asked if there was any consideration being given to the filter. Mr. Buxton explained that he is not a voting member of the board; it was just a suggestion for the board. Jim explained that DES has a system for inspecting the septic with the State approval of the Cosmetology shop license, as far as the chemicals. Mr. Armstrong asked about the water flows underground and the release of the chemicals and what that would do to the water systems. Julie asked the year that the septic was put in. It was approved by the State in 2003 and Julie explained that the septic was approved and they will be checking to see if the load would be adequate, and that the state has very strict standards.

Julie has a comment regarding the ZBA decision, which was that any property owner can have one sign according to the new legislation, so Mr. David could have a sign due to the recent Supreme Court decision, the ZBA can't state that he can't have one. He would still have to go through the sign permitting process. Mike explained that the ZBA followed the past practices of the board in regards to the sign.

Kate motioned to closed the public hearing at 8:00pm, Mike seconded, all in favor.

Mike made a motion to accept the application of Mr. David as complete and that the site plan review meets the requirements of the board and should be approved. Peter seconded, all in favor.

2. Karen Monique Martell and Richard Martell, 285 North Haverhill Road, Kensington, NH 03833, Map 13 Lot 3, for an application to subdivide and create one new lot, in accordance with Article III, Section 3.2 of the Kensington Subdivision Regulations.

Monique approached the board with plans that have changes from the last meeting with the board. She has seen Julie and worked with her on the plans and what needs to be included on them. The board reviewed the new plans. She reported that she has the septic results as well. It was pointed out that she will need to merge the two lots and then subdivide them to get the lots that she is requesting. There are currently two lots and she wants to make a third lot. Mike pointed out the pork chop lot and asked what she is looking to merge. Mrs. Martell is looking to merge two lots to adjust the lot lines.

Julie explained that there are a few things going on with this application. There is a lot merger then a subdivision of the lots. The applicant will also have to do a lot line adjustment in East Kingston. The board has the ability to waive the lot shape regulation without going before the ZBA. (Article III; Section 3.3B2 Lot Shape) Julie clarified what the applicant is trying to accomplish.

1. Lot Merger

Map 13 Lot 3

Existing	9.217 ac
Proposed	14.269 ac
	(Plus Map 13 Lot 3-1 5.022ac)
	(Minus Map 13 Lot 3-2 3.97)

2. Subdivision

Map 13 Lot 3-2

Subdivide 3.97 ac from Proposed Map 13 Lot 3 10.269 ac to create Map 13 Lot 3-2

Mike asked for clarification of what she is intending to do. The applicant is looking to change the lot lines because they currently go through her horse paddocks. If she ever wanted to sell off a piece of land, she would not be able to with the current configuration. Mike asked about when she appeared before the board several years ago, what had she done then? He remembered that she appeared, and she clarified that nothing was finalized. Mrs. Martell did state that in 2001 she subdivided the lots and she is looking to undo and rework the lines now. Mrs. Martell turned in the test pit information for the file.

Bob asked what the board can accomplish tonight. Mike explained that it should all be done in one meeting. If the merger was done tonight there would be just one lot. Julie explained that the wetlands have not been delineated on the plan, or the topo and those will need to be on the plan. Julie explained that she did the topo and it did not exceed the slope needed.

Jim asked if there were any abutters who had questions.

Lars Larson asked if he could see the drawings. He approached the board and Peter Merrill explained the latest drawing to him.

Mike asked if the plans in front of the board meet the requirements for the merger and the subdivision. Julie explained that they do not yet meet the requirements. The final Mylar will be cleaned up and have all the required information on it. The paper plan as well as the Mylar will need to be stamped by the wetlands scientist, and the date that they did the survey. Julie had marked up a plan with the applicant and it was reviewed, and stated that would be the information needed on the new plans and Mylar. Mike explained that the plan is not complete, and that the board can't act on it. He suggested postponing and continuing the meeting until May. Jim explained that the board should delineate what is needed.

- Additional calculations of the existing and proposed parcels.
- Notes about test pits.
- Wetland scientist stamp and signature with date that the survey was done.

- Monumentation indicated on plan with it done for the reflux area as well.

Mrs. Martell asked if the board was okay with the test pits not being on the plan, but on the final Mylar. The notes will not be on the plan, but on the final Mylar, which will be presented at the next meeting.

Bob made a motion to continue the hearing until May, seconded by Mike. All in favor.

Motion to close public hearing by Peter, seconded by Mike, all in favor.

Ricci Pit-

Meeting with John Ricci and

Jim asked Mr. Ricci to explain what currently occurring in the pit area. He explained to the board that they are taking gravel out of the pit and it is more than in years past. He has a reclamation plan. He apologized that he did not meet with the abutters to let them know that they will be taking out more than in the past. He stated that in the next three years they will be taking out approximately 49,000 yards. The construction entrance is in and the barrier of grass is left up. They will be working within the hours of operation of the town. They have owned the property for years and they will be reclaiming as they go. They should not have run off because the lot all runs back down onto itself. Mike asked if he was correct that the lot was just about 10 acres. Mr. Ricci confirmed. He then stated that 5 acres is all that can be exposed at a time. He explained that they will be doing the excavation responsibly as they have in the past.

It is all export, not hauling anything in. There seems to be enough on the lot, loam would be the only thing that they might have to bring in to reclaim. David explained that he is the road manager and that the Selectmen are sending a letter in regards to the direction of the traffic leaving the pit, and his job is to get the trucks to the state road as quick as possible. There will be no right hand turns leaving the pit area. Peter asked if there is a written reclamation plan that was written out with Jim Webber. The form on grandfathered pits from 1989 was presented to the board. Mike explained that the town engineer does inspections on active pits in Kensington. Dave explained that we do not carry a frost ban in Kensington and that the town may come to you and ask you to not haul until after lunch certain times of the year. Dave's concern is to not pound the roads with tons of trucks. Mr. Ricci explained that if something comes up, to please call the office. The board asked how many trucks will be coming in and out daily. It could be around 30 loads a day, it is not going to be done in months, and this will be around a 3 year project to complete. Dotty Milbury explained that she is a neighbor and there hasn't been a problem with the trucking so far. Mr. Ricci explained that if someone sees anyone out the lot, please don't let anyone on the property, the trails are all changing due to the movement of materials, and it is dangerous for the people who have been accessing the land. The board will mention it to the Chief of Police. Mike explained that it makes sense to have Christian Smith the town engineer visit the property. Peter explained that he might tag along with the engineer. Christian will be contacted and Mr. Ricci will be called to set up a time to do the inspection.

The board thanked Mr. Ricci for attending. He exited the meeting at 8:50pm.

Norman Giroux- Question for board on Patio addition

Norman Giroux approached the board next about questions that he has on a patio building permit. This application is for the Wild Willow Restaurant located at 149 South Road.

Mr. Giroux explained that the permit application is to extend the existing deck area 34x26, and it is currently 13 feet wide. Mr. Giroux showed the board the hand sketches presented with the permit. Kathy explained the Mrs. Pereira was seeking to just do the building permit and have the patio area approved to be built. Mr. Giroux is there to find out whether or not she would need to come to the planning board for a site plan review or if she can just do the simple building permit for the patio area. Mike asked if the open area is that is currently there now what she is looking to expand and to bring alcohol out onto that deck area. Mr. Giroux confirmed, and stated that

there are no tables out there now. Kathy and Peter explained that because there is already a patio there she is stating that she just needs to obtain a permit from the building inspector to expand. Julie explained that would not be the case. There are new regulations that were added in March of 2016. Peter explained that there needs to be detailed information given for the process needed to obtain the permit.

Mike read from the recently added Non-Conforming uses section of the zoning:

SECTION 4.4 NON-CONFORMING USES, STRUCTURES AND LOTS

Section 4.4.1 Non-Conforming Uses and Structures

C. Expansion: Expansion of a non-conforming use or structure for a purpose or in a manner which is substantially different from the use to which it was put before the alteration is prohibited except by variance granted by the Zoning Board of Adjustment. The non-conforming use or structure, if granted a variance by the Zoning Board of Adjustment, may be physically extended, reconstructed, enlarged or structurally altered but only in conformity with the requirements of the zoning ordinance.

Mike explained that this board needs to determine if this will be a manner which is substantially different from the use to which it was put before the alteration. Mike believes that this project meets the criteria above and that the applicant has to obtain an approval from the Zoning Board of Adjustment for a variance, before even coming to the Planning Board for the site plan review. Mike asked if the board agreed with him, and they do. Julie stated that advice for the Zoning Board would be a more detailed plan than what is provided in the permit application. Kate explained that it needs to be on a site plan that shows where the abutters are where it is in relation to the whole lot, what kind of retaining wall will be on the site, what the square footage of the area would be, or what the layout of the table and chairs would be and the fence needs to be more detailed. Mike explained that the planning board has questioned it and that the zoning board of adjustment will need to be involved. They believe that a full set of plans must be presented to the zoning board of adjustment. Kate explained that the capacity of the area. Set back requirements. Peter asked if it is incumbent on the applicant or should the board go through the list. They are planning to seat and serve and the existing deck. Mike asked if they were adding to the deck, he thought that it would overlay. Peter explained that it is 1100 square feet. Bob asked has that been explained by them yet? Peter explained that they attended a Selectmen's meeting to state that they wanted to serve in that area, as well as have an outside band. Julie explained that this is an expansion of the structure as well as the expansion of the use. Julie also stated that if they are in the flood zone that they would have to use special materials when constructing the addition. Mike explained that there is a minor site plan checklist that the planning board would be using when reviewing this application once it is turned into them. The wetlands were shown to the board from the Granite View site. The overlay comes over the corner of the building. Mr. Giroux explained that he has concerns about drinks coming out into the parking lot. Mike stated that there being a gate there then there will have to some sort of alarm on the exit gate because it is an exit for the building. Parking lot bumpers are a concern, it should be concrete pilings. Emergency lighting outside should be considered as well. He was concerned about the glass bottles being served on the concrete and not sure if there is anything that can be done about that.

He expressed that he is there to make sure that there is clear definition as to what is needed for this application. Kathy will get a letter done up that will indicate all the concerns above for Norman to be able to provide to the applicant.

Norman left the meeting at 9:16pm.

OTHER BUSINESS:

Election of Officers:

Mike nominated Jim Thompson for another year as the chairman, Bob seconded, all in favor. Mike nominated Joan as Vice Chairman, Jim seconded, all in favor.

Approval of March 15, 2016 meeting minutes

Mike made a motion to approve the minutes with the corrected spelling of drones, Bob seconded, all in favor.

Mike reported that Hampton has no interest in regulating the drones due to the state regulations and the FAA restrictions.

Motion to adjourn was made by Mike at 9:25pm, seconded by Peter, all in favor.

Respectfully Submitted,

Kathleen T Felch,

Planning Board Clerk