

Town of Kensington
Planning Board
November 15, 2016
Meeting Minutes-*Approved December 20, 2016*
7:00pm

In Attendance: Julie LaBranche, RPC Rep., Michael Schwotzer, Kate Mignone, Peter Merrill, Selectmen's Rep., Joan Whitney, Vice Chairman, Bob Solomon, Jim Thompson, Chairman

Others in attendance: William Buxton, Peter Landry, Surveyor, Donna Carter

Jim called the meeting to order at 7pm.

William Buxton Subdivision of 2 lots.

Mr. Buxton stated that Mr. Peter Landry would be representing on the application. Mr. Landry addressed the board and informed them that they are looking to create two lots out of the parcel. They are also requesting two waivers.

There was discussion on the driveway location and not having a delineated section on the plan within the proposed lot. Jim read the following from the subdivision regulations to all present: Article III, Section 3.3K.

- **K. Driveway Reserve Area (Adopted 02/20/1997)**

A subdivision plan will show a "driveway reserve area" for each proposed building lot. The driveway reserve area is a possible location for a driveway that meets the Town of Kensington Driveway Regulations (found in Chapter V, Article 2 of this document). Shared driveways may be required in order to meet the regulations.

He explained that there needs to be a driveway reserve area on the plan, even if it isn't used.

Mr. Landry explained that the applicant will be adding a deeded right of way to the deeds for a legal access to the proposed lot.

Peter reviewed the google maps online to try to site the existing driveway on the lot. He believes that there are some buildings and features that should have been added to the plan.

The board also reviewed Article IV, Section 4.2 Driveways.

Joan asked if the driveway could be moved over, and Peter explained that would be a wetlands crossing and they are trying to not impact the wetlands. He indicated that it would be hard to obtain a permit from the wetlands board because there is a driveway already there.

Joan believes that the driveway easement area was not put in the right place. Mr. Landry explained that if they need to further impact wetlands, and he would have a hard time getting the approval from the state because he does have a way around them. He would also have to fill the wetlands to have the access that the board is requesting. The driveway depicted on the plan has been used to access another lot already. Mike explained that there needs to be a driveway to the lot, not just a right of way.

Mr. Buxton explained that there was a portable saw set up there prior to 1944 and that was their access to the wood lot. This area that they want to use for the right of way to the lot is very passable.

Jim proposed to have the lots divided so that the right of way is included in the second lot.

Mike read the driveway reserve area again and explained that the deeded right of way across another lot does not meet the requirements on the lot being proposed. There was another lot in town that

shares a driveway, but they still had to show a reserve area for a driveway in case it was to sell in the future.

Mr. Landry thinks that the right of way would work as the driveway reserve area. There is plenty of frontage on Osgood Road and you could have a driveway through there, Peter explained that there is all wetlands. The board stated that the lot created before is non-conforming, and would not be allowed with today's regulations.

Jim explained that the lot shape regulation should be considered as well.

Bob explained that there is already a lot created that with lines that would violate that regulation, but the lines are the boarder of the proposed lot.

Julie asked what kind of road is going through there. Mr. Landry explained that the used to log trucks going through that area regularly to access another lot. Julie would recommend a review from the road manager and the town engineer. There is a big difference having someone driving on the driveway seasonally or occasionally.

The board asked when the property was sold for a reference to the last time the road was regularly used, and that was December 2002.

Julie asked what area of the lot is located in the flood plan. Mr. Landry indicated that the entire lot will be within the FEMA flood plain. Mr. Landry explained that they can be removed from that zone, because the maps in this area are incorrect, and that is usually something that gets brought up at the building permit stage.

Mr. Landry explained that two test pits meet the town requirements for the proposed lot area.

The applicant did not show the 4k area because they are requesting a waiver for that regulation.

Article III, Section 3.3I in the subdivision regulations:

I. Septic Reserve Areas

1. Every proposed lot in a new subdivision shall contain a 4,000 square foot area labeled on all plans as septic reserve area, and designated for use exclusively as a septic waste disposal area.
 - a. The following standards shall govern such areas:
 - i. The bounds of the septic reserve area shall be located no closer than 75 feet from any drainage group 5 or 6 soil as identified by high intensity or town wide soil survey maps;
 - ii. Septic reserve areas shall not be located on any land where naturally occurring seasonal water table levels are closer than 18" from the original ground surface;
 - iii. Septic reserve area location shall be noted on plans submitted to any other town official. The Planning Board shall have the option to require that this septic reserve area shall be the only area on the lot to be utilized for septic system placement, based on wetland, slope or other restricting natural resource considerations. Such requirements, if necessary, shall be labeled on approved subdivision plans, and shall be binding on the lots in question; and
 - iv. All test pits utilized to determine soil characteristics of the septic reserve area shall be performed by a Licensed Register Land Surveyor, a N.H. Licensed Septic Designer, or a N.H. Registered Professional Engineer, with the cooperation and concurrence of the Town of Kensington Test Pit Inspector.

In cases where conflicts of observation and test pit profile determination exist, a neutral third party opinion will be required. Such third party evaluation shall be performed by a qualified soil scientist, and shall be the binding information utilized.

Julie does not see a reason for this request to be waived. Mr. Landry stated that there was a waiver request given with the application along with reasons for this request. The board reviewed the request and the plan. Mr. Landry explained that they tried to do the most practical and no impact to the wetlands. The person that purchases the lot would have to maintain the right of way driveway, but Mr. Buxton would still be able to use the right of way to access his wood lot.

Mr. Landry showed Jim where the septic will be going for the proposed lot along with the test pits.

Peter made a motion to have the town engineer, fire department, police department and the road manager view the lots. Kate seconded the motion, all in favor.

Julie questioned if the board would want the septic reserve area shown on the plan, she recommends that this information be shown on the plan. The other waiver was discussed as well.

Peter motioned to deny the request for the Septic Waiver for section Article III, Section 3.3I; Mike seconded, one opposed, motion passed.

The board reviewed the soil based waiver request. Article III Section 3.3H Soils-Based Lot Size Determination (Amended 07/2002).

The board will not deny or approve this waiver until the plan is revised with the septic reserve area information. Mr. Landry explained that the lot size is not going to change so does not feel that this section needs to be done. They will wait to act on this until they have the information updated.

Mike moved to continue the public hearing until the December 20, 2016 Planning Board meeting, Peter seconded, all in favor.

Julie explained that her reason for making the request for the board to consider denying the waiver was because of the accessory dwelling regulation coming up.

There was no abutters present, but John Bernier sent a letter to the board stating that he was in favor of the proposal.

Accessory Dwelling Units:

The board received handouts from Julie on the revisions to the regulation. The indicated that they did not want to have to have the applicant install the septic if it was still functioning appropriately, but they would need to have a plan on file in case the septic were to fail.

The board also changed that the applicant will have to come before the planning board for a conditional use permit, and not go before the zoning board as you would with an In-law apartment.

She revised the section to read smoother about when the septic would be required to be replaced. The board made a few edits to this section.

- If septic is current approved septic, no action needed.
- If septic is not current, plan will need to be provided.
- If the septic is failing, they would have to install new one.

Mike stated that to demonstrate adequate you would have to provide the plan, but not have to install the system as part of the approval.

Donna expressed that the state RSA is clear on what will need to be done.

The board is going to mimic that state RSA, but that they could be more restrictive if the board so chooses.

Peter wanted to express that it goes back to intent and that they are trying to protect the intent, and acting in the best interest of the land owner.

It was discussed that a licensed septic design installer could inspect the system to prove that it is functioning correctly.

Donna asked if the board was going to add the architectural review into the ordinance. The board did not think that would be appropriate where it is not enforced anywhere else in town.

Mike made a motion to have the Public Hearing on the Accessory Dwelling Units, including the edits made tonight, on December 19, 2016, Joan seconded. Discussion

Donna expressed concerns about not having the units detached. The board explained that they are all on the same idea that they should be attached.

She asked if at the public hearing the board would be open minded and hear the people out if enough of them attended. Peter explained that the public can voice their opinions, but the ultimate decisions is that of the boards.

Vote called, all in favor.

Julie will work on preparing the warrant article language that would repeal section F on the In Law Apartments and replace it with a new section F Accessory Dwelling Units, as presented.

The board further discussed that if the article is to fail it will be defaulted to the state statute on Accessory Dwelling Units, and all agreed that would not be what they would want. Julie suggested making up pamphlets to hand out to resident on the difference of the two and why it is important for the article to pass.

Sign Ordinance:

Julie showed the board the changes that she has been working on to change the town's current sign ordinance to comply with the state. Julie reminded the board that the ordinance can only regulate the size of the signs and the number in each district/zone. Adjustments were made to the sections. Mike explained that open house signs and signs attached to telephone poles are not allowed. Even ones stating that an event is happening down the road, such as wedding, birthday, reunion.

They decided on a 6 square foot sign size with 3 square feet on each side if it is double sided.

Julie will make revisions and get them to the board on Monday.

Mike made a motion to hold the Public hearing on December 20, 2016 at 7:00pm on the amended sections as discussed tonight. Joan seconded, all in favor.

Mike made a motion to time limit the initial discussion of the agenda items to 45 minutes. Kate seconded. Five for and One against.

Joan made a motion to approve the meeting minutes from October 18, 2016, Bob seconded all in favor. One abstention.

Mike made a motion to adjourn the meeting at 9:24pm, Bob seconded, all in favor.

Respectfully submitted,
Kathleen T Felch