

**KENSINGTON, NEW HAMPSHIRE
KENSINGTON PLANNING BOARD
TUESDAY
OCTOBER 16, 2018
7:00 P.M. AT THE
KENSINGTON TOWN HALL
95 Amesbury Road
Meeting Minutes- *Approved 11/20/2018***

In Attendance: Christopher Chetsas, Chairman, John Valvanis, Vice Chairman, Mary Smith, Jim Thompson, Michael Schwotzer, Selectmen's Representative, Julie LaBranche

Others in Attendance: Norman DeBoisbriand, Holly McCann, Peter Landry, Matthew Andrews, Stacy Craig, Paul Lovvik, Wendy Smith, David Smith

Chris called the meeting to order at 7:00pm.

Chris introduced the members of the planning board and continued to read the following to all those in attendance.

Public Hearings:

Norman DeBoisbriand and Holly McCann of 26 Moulton Ridge Road, Kensington NH, Map 11 Lot 40-33 and James C Falconer, Trustee of the James C Falconer Revocable Living Trust and Doris H Falconer, Trustee of the Doris H Falconer Revocable Living Trust Map 11 Lot 42-3, for a Lot Line Adjustment in accordance with Article III Section 3.2 G1 of the Kensington Subdivision Regulations. The intent is for the property owners to adjust the current property lines by reducing the lot area of Lot 42-3 to 5.941 acres and enlarging Lot 40-33 to 6.734.

Jim motioned to open the public hearing at 7:02pm, Mary seconded, all in favor.

Peter Landry approached the board explaining that he was here tonight to represent the land owners, and that this was a simple lot line adjustment. The plan recorded an adjustment of acreage between Mr. Faulkner and DeBoisbriand/McCann. The lot that is transferring land to the abutters on Map 11 lot 40-33 is a section that is part of a horseshoe lot that extends up and around the abutting owners' property. (Andrews) This adjustment is believed to be a "cleaning up" of lot lines for easier lot identification. The common lot line will be eliminated and there will be a new line created. Mike believed that this was a change to a non-conforming lot and that non-conforming lots cannot be made further non-conforming. His questioning was noted. There were notes from Julie that were reviewed. Mr. Landry answered all the questions indicated.

One issue was of the lot lines having better clarification as to the change, and if the parcel needs to be named as parcel "A". The lot lines will be clarified on the plan and he explained that using Parcel "A" adds clarity to the section being transferred in a deed.

Chris opened the meeting for public comment at 7:18pm.

Matt Andrews approached the board and showed where he was an abutter and that he has no issues with this adjustment to the lot lines, as a direct abutter. Mr. Andrews expressed his support for this lot line adjustment and that he was looking to transfer a portion of the piece once this lot line adjustment was completed.

Paul Lovvik stated that he has reviewed the plan and has no issues with this transfer and sees no impact in doing the lot line adjustment.

Mary questioned the side setbacks, which were explained to be 25 feet from the lot lines.

John made a motion to allow the property owners lot line adjustment for Map 11 lot 40-33 to contain 6.734 and Map 11 Lot 42-3 to contain 5.941.

- **Plan changes in reference to labeling**
- **Certification of Monumentation**

Discussion followed.

Jim asked if the board could go through the checklist at this time. The board reviewed the plan and the checklist. The certification of monumentation was discussed and decided to be added to the conditions. **Mary seconded. Vote: Chris, John, Mary and Jim for the application. Mike abstained from the vote.** Mary made a motion to close the public hearing, John seconded, all in favor.

Chris read the following to all those in attendance:

David M Smith, 5 Olivia Lane, Kensington, NH, M3, L54-5, for a Site Plan Review, in accordance with Article IV, of the Kensington Zoning Ordinance. The applicant proposes to operate child enrichment programs from their residence.

Jim motioned to open the public hearing, John seconded, all in favor.

Ms. Smith explained to the board that she is looking for approval for an enrichment program for children ages 18 month to 4 years old. Hours of operation would be 9am-noon, for six weeks, 3-4 times per year. This was explained to be a development program to enhance sensory experiences. They had agreed to 10 cars with the zoning board and explained that the parents would be staying with the children. Jim asked where the cars would be parked and where that was indicated on the plan. There was no certified site plan but the cars were noted on town tax map for the lot. The board reviewed the photographs submitted with the application. The total area to be used would be 528 square feet with an additional 30 square feet if the bathroom was used upstairs.

Julie went through her questions with the board, the applicant had received a copy before the meeting for their review. They asked if the Zoning Board had clarified the cars to be customers or volunteers or residents' cars or all? It was not clear within the board decision. Gross floor area is below the 25% restriction. The applicant does not qualify as a Youth Skills Camp, but is following the guidelines to have background checks, if there are to be volunteers alone with any of the children. Nature and outdoor play will be part of the program and the board was unsure of this section as a home occupation is to show no outside evidence of a home occupation by definition. Cars will be arranged diagonally to allow for access around them. It was discussed that the cars and the outside play were questionable for a home occupation. John stated that the zoning is not clear on this, someone would have to see the cars at sometime even if it was only one. The need for a fence was discussed but where the parents are staying on site with the children there did not seem to be a need for that condition at this time. The fire chief will be asked to decide on the parking as part of the conditions of approval.

Stacie Craig was in attendance as an abutter and has no issues with this use. She is a direct abutter and believes that this application and use will have no negative impact on the abutting properties. She knows the area they are talking about and has no concerns about that many cars being in the driveway area of the lot. She explained that this use in reality is for 24 days per year, and believes that a home occupation supports this type of activity.

John asked if the use is under the jurisdiction of the zoning board, and if they have the option to send this back to the zoning board. Julie stated that there is an avenue for that, by way of challenging their decision, and that it is a separate process. Mike does not suggest the challenge but would support writing a letter to them stating the planning boards concerns and inviting them to a meeting of the board next month.

Jim moved to approve the application pending a health and fire safety inspection being done by the fire chief, and the adequacy of the parking verified. Mary asked if the 10 cars were determining to be the visitor's cars, volunteers, and/or homeowners. The Smith's stated that they can fit their cars in the garage and that is where they would be during the session. They are interpreting the motion to be 10 cars excluding the homeowner's vehicles, which are garaged.

Jim made a motion to accept the site plan with the following conditions:

1. **Fire and safety inspection by Kensington Fire Chief**
2. **Maximum of 10 cars on site excluding homeowner vehicles.**
3. **Fire Chief to conduct a fire and safety review of the proposed parking and report to the Planning Board**

Mike seconded, and asked checklist to be reviewed. The board reviewed the checklist. John does not believe that this conforms to the use per zoning.

Mike, Mary and Jim approved. Chris and John opposed. Application approved.

Chris motioned to close the public hearing at 8:32pm, Mike seconded, all in favor

There was a discussion on the regulations and the interpretation of the zoning board and the planning board and how they differ in relationship to the home occupations and having any outside evidence of the home occupation. Julie will draft a letter to the zoning board expressing the planning boards concerns before their next meeting on November 6, 2018 asking them to attend the next planning board meeting to discuss possible zoning changes to the home occupation process.

OTHER BUSINESS:

Ricci- Request for fund release on Tannery Way

8:52pm; Jim Thompson recused himself from the discussion as an abutter to the project.

Mike explained that the board of selectmen have sent Mr. Ricci a letter on the fund request. He continued that the town engineer and the road manager were in attendance to discuss the request. The planning board was given the letter from the selectmen to review. Once the conditions are met then the funds will be released on the selectmen's side of the process. The planning board still needs to sign off on the project for the funds to be released. This request was made on October 2, 2018.

Mike made a motion for the planning board to approve the request from Mr. Ricci for funds to be released on October 2, 2018 for \$47,935.00, when conditions listed in the Board of Selectmen's letter dated 10/12/2018 are met, John seconded. Discussion on if there would be sufficient funds remaining in the fund to cover any issues that might come up with the road. **Motion was called, all in favor. Jim recused.**

9:10pm Jim rejoined the meeting.

- **Article VI Section 6.1.6 amendments-** hydric soils- Julie discussed the changes with the members in attendance. There was discussion on the size of the building to be with in the buffer. Final draft will be reviewed next month.
- **Revised Accessory Dwelling Unit section 3.2.3-** The board reviewed the changes to be within or attached, minor adjustments were made, this will be reviewed in November.
- **Budget for 2019-** the board reviewed the budget and no decisions were made.
- **RPC book order-** the zoning book order was discussed no decisions made, it was suggested to order the same number usually ordered.

Other Business:

- **Possible Violation-** 98 Amesbury Road- Mike read the board the minutes and approval of the site plan for 98 Amesbury Road from their application to add the wrap around deck. It specifically stated in the minutes that there were to be "no waitresses serving on the deck area". An enforcement letter was sent last year and the board got a response, the planning board will review the response and draft another letter to the applicant about the unapproved use.
- **Planning Board Member-** Peter Merrill had reached out to Mike and asked to be reappointed to the planning board. Mike explained that there is still room on the board for another full member of the planning board and would like to nominate Peter. All agreed. **Mike motioned to ask the Selectmen to appoint Peter Merrill to the planning board. John, Jim, Mike and Chris approved. Mary abstained from the vote.**

Meeting minutes- September 18, 2018

The board members had reviewed the minutes from September. **Jim motioned for the minutes to be approved as written, Mary seconded, all in favor.** Mike abstained.

Mary motioned to adjourn the meeting at 10:02pm, Jim seconded, all in favor.

Respectfully submitted,

Kathleen T Felch