

KENSINGTON PLANNING BOARD MEETING
95 Amesbury Road, Kensington, NH 03833
TUESDAY October 15, 2019 – 7:00pm
Meeting Minutes - Approved 12/17/2019

In attendance: Mike Schwotzer, Member; Jim Thompson, Member; Robert Chase, Member; Mary Smith, Vice Chair; Peter Merrill, Chair; Vanessa Rozier, Selectman's Representative; Julie LaBranche, Rockingham Planning Commission

At 7:01pm Peter called the meeting to order.

Pledge of Allegiance

At 7:04pm, Peter recused himself. Mary will act as Chair for this portion of the meeting.

PUBLIC HEARING:

At 7:04pm, Mary opened the public hearing continued from the September meeting:

- Continued review of the following site plan review application from 152 Drinkwater Road LLC, 152 Drinkwater Road, Map 15 Lot 7, for agricultural stables and supporting structure, in accordance with Article IV Site Plan Review Regulations for the Town of Kensington

Alex Ross, Civil Engineer for the project addressed the Planning Board with the property owner John Roth, Soil Scientist Mark Jacobs, and David Baer. At the September meeting, the Planning Board voted to accept the application. Mr. Ross summarized to the Board the list of the items that have been submitted and the events that have occurred thus far. Since the last meeting, there has been a site walk and the group received NH DES approval for restoration work. At the last meeting, the applicant stated that they would be pursuing an ADU permit, however they have decided to abandon that at this point. Mr. Ross explained that he has been working closing with Fire Chief True and Road Manager David Buxton. Chief True made several requests which have been completed, as well as a draft easement, and property description have been written. Mr. Ross informed the Board that he has walked the northern property line with an abutter and has installed property markers at that boundary.

Mr. Ross stated that it was recently brought to their attention that there is the possibility of gravesites on the land. Based on the provided information, they do not believe the potential site is near where the work will take place, but regardless they plan to respect the historical nature of the property and plan to follow strict excavation protocol. David Baer has experience working on historical sites. Mr. Ross presented the Board with proposed plans for the signage and lighting. This has been reviewed by the Town Reviewing Engineer and Mr. Ross was told that it meets all Town regulations. There was discussion on the location of the driveway, turnoff, and cistern in relation to the easement. Mr. Ross said that as a result of conversations with Chief True, the cistern was relocated to the northern part of the property.

The Board discussed the signage. Dave Buxton has expressed to a member of the Board that he would like to be involved in the location of the sign as well as suggesting a condition that there be a sign required that all non-personal vehicles existing the property be required to turn right out of the new driveway then right onto North Rd. The applicant is in agreement with that.

Julie explained that she has drafted a memo that outlines conditions that she recommends accompany any approval. There was discussion that some conditions should have a timeline to them, otherwise all conditions in the memo were acceptable to the applicant.

There was discussion of the wetland disturbances that have occurred on the property and the wetland restoration plan that will be put into place as a result. DES has reviewed and approved the restoration plan. There as additional discussion on the expansion and maintenance of the wetland because the trails are not a permitted use of the wetland without a permit. The Kensington Town Zoning Ordinance is also impacted and would require a variance. This is a scenario where the State and local Zoning Board could be in conflict. There was discussion on the width of the trails

which Mr. Roth stated were all existing trails, but had been widened intentionally. Conservation Commission Member Sydnee Goddard disagreed with Mr. Roth, stating that she feels there are places there are new trails.

Mark Jacobs addressed the Board stating that he walked the site with representatives of the holder of the conservation easement. The width of the trails is not in violation of the easement and it was indicated by the representative that the trails were overgrown prior to Mr. Roth's purchase of the property. It was clarified that the wetland violations and width of the trails are separate issues. There is still wetland delineation and survey work to do. Mr. Jacobs stated they will likely need an extension of the November 5th DES deadline.

Robert asked about the size of the cut because the Intent to Cut was filed for 10 acres, however the final report states that 15 acres were cut. It was clarified that the Intent to Cut is an estimate of acreage for approval by the Selectmen and it is not atypical to see a discrepancy.

The Board reviewed a memo outlining Julie's suggested conditions of approval. The Board discussed timeframes for the suggested conditions.

There was discussion on the possibility of slave graves on the property. The state archaeologist was contacted but the Board was unable to get a response prior to the meeting. Mr. Baer addressed the Board stating that he has experience dealing with historical properties and outlined to the Board what would happen in the even that remains or artifacts were found during excavation. They would do everything necessary to preserve any cultural or historical pieces/remains that were found, though there will not be excavation on the property in the areas that the graves are believed to be.

Abutter Dick Parker of 146 Drinkwater Rd presented the Board with an aerial photo of the subject property and surrounding properties. There was brief discussion on a previous marker that no longer exists that possibly marked the gravesites. Mr. Parker stated his concerns to the Board: because the trees in the wetland areas have been cut, there is potential for water buildup in the wetlands, the trails have been considerably widened and built up with woodchips, that work has started without a site plan approval, and material that was trucked off site. Julie stated that the easement that Mr. Parker holds for his own property is very different than the easement Mr. Roth holds, thus different uses are permitted, with exception to the wetland violations. Jim asked if Mr. Parker has addressed his concerns at a Board of Selectman meeting; Mr. Parker has not. Mr. Parker pointed out that there has been a change of ownership in abutters that is not reflected on the plans. There was a brief discussion on agritourism. IT was clarified that nothing building related has occurred yet on the property, and there was approval for the tree cut. The Board feels the applicant has followed the procedures thus far.

Abutters Karen Parker Feld and Peter Feld of 178 Drinkwater Rd addressed the Board raising concerns that they don't feel as though the process was properly followed by the applicant. They feel this is commercial activity under the guise of agricultural activities. They also expressed concerns over the number of trees that were cut down and the potential impacts of the cut to their property, especially with regard to the water that will no longer be absorbed by trees. They feel there has been a lack of respect for the Town and the neighbors. In addition, they would like to see some of the trees replaced along the road. Jim asked Mr. and Mrs. Feld if they have addressed their concerns at a Selectman meeting; they have not.

Conservation Commission Member Sydnee Goddard questioned where the additional 5 acres cut were. She explained that it seems as though there was a culvert put in. Mr. Jacobs explained that they inquired with George Gavutis who acted as the previous owner's agent for a 2010 tree harvest and Mr. Gavutis had indicated that a culvert had been installed at that time for that cut. The culvert was recently replaced.

There was additional discussion on the cut. Mr. Roth stated that they wanted to have more pasture and were directed by the easement holder to contact a registered forester, which they did.

There was brief discussion of the stormwater drainage required by the AOT and the Forest Management Plan that was updated when the clear cut was done.

Julie asked what the hours that the building would be lit are. Mr. Roth stated that it is difficult to be precise as they haven't discussed any times yet, and would need to be able to use the lights in the event of an emergency. Mr. Roth stated that there are no lights on in the barn overnight, but would like to think about this. Mr. Roth will return to the Board with a revised lighting plan for the exterior. Mike proposed conditional of approval to include a revised lighting plan for discussion and agreement to include hours of illumination/darkness.

The Board discussed and continued to review the memo with suggested conditions of approval. There was additional conversation around signage and truck routes to be approved by the Road Manager.

There was discussion on a stormwater management plan as a result of the clear cut. Mr. Roth asked if others who clear cut are required to do this, and it was determined that it is not required. Joan Skewes, Member of the Conservation Commission stated that these concerns by abutters regarding the runoff show the importance of the wetland buffer. It was explained by Mr. Roth that the Forester in charge of the cut ensured that they were not in violation of wetland areas. Mr. Jacobs will be qualifying and quantifying all of those details. It was determined that if there is a problem with the clear cut, it become an enforcement issue for the Board of Selectman.

The board discussed the suggested conditions and the timeline. **At 10:08pm, Mike made a motion to continue the meeting to Tuesday November 5th at 7pm. Jim seconded.** Robert stated that he does not feel the town or the applicant benefits by continuing the discussion to a special meeting, as there are items on the list of conditions that will need to be completed prior to the signing of the mylar, in addition to the fact that this is taking away from the Planning Board accomplishing other things. **At 10:14pm, Mike withdrew his motion. Jim seconded.**

At 10:14pm, Robert made a motion to approve the Yorkfield Stables Site Plan Review with the following conditions:

A. Conditions of Approval that must be fully met before: 1) signing of the mylar site plan, 2) issuance of any other town permits or approvals, and 3) before the commencement of any construction permitted by the Site Plan Review approval by the Planning Board.

1. All federal and state approvals shall be granted and copies of these approval provided to the town.
2. The property owner shall cease all activity to expand and/or maintain trails or other access ways in wetlands and other resource areas under the jurisdiction of the town and the state until all violations are resolved.
3. The applicant shall confer with the NH Division of Historical Resources regarding the required protocol for investigating the possible presence of archaeological resources on the property and file necessary applications for state approval. A copy of any application and approval shall be submitted to the town. The applicant shall follow the best practices for archaeological asset protection and preservation recommended by the NH Division of Historical Resources.
4. The town shall issue a driveway permit for the new driveway approved by the Road Manager and Planning Board. The existing driveway shall be discontinued.
5. Signage to direct traffic to North Road and signage content, materials and size shall be approved by the Road Manager and Planning Board. Signage to be provided by the applicant.
6. Given the presence of conservation easements on adjoining properties and prime wetlands on the Hampton Falls portion of the property, the property shall be surveyed and all boundaries clearly marked including the boundary between Kensington and Hampton Falls.
7. The applicant shall submit revised site plans and signage/lighting plans for approval by the Planning Board, town engineer and Fire Chief. Site plan revisions shall include update of abutters on all plan sheets where they occur, location of fire cistern and easement area, and the locations of the two proposed signs at the driveway entrance. Signage/lighting plans shall reduce the number of exterior lights beneath the roof overhang and a note added that exterior lighting shall be off by 10:00pm daily. The applicant shall apply for a sign permit for approval by the Building Inspector.
8. The Fire Chief shall determine whether a Spill Prevention Control and Countermeasure Plan (SPCC) is necessary as required by the Kensington Site Plan Review Regulations Section 4.6.F.7.
9. The Fire Chief and Planning Board shall approve the revised cistern easement which shall include updated metes and bounds for the fire cistern location.

10. The applicant shall prepare a detailed site inspection schedule for approval by the town engineer. The town engineer shall inspect the development site to confirm that required erosion and sediment controls have been installed before land disturbance, demolition or construction can begin.
11. All fees must be paid in full and a performance surety in form of cash must be posted for the full amount of the Construction Cost Estimate dated 10/15/19 as approved by the town engineer and Planning Board.
12. The Kensington Fire Chief and Building Inspector shall inspect and verify completion of building and infrastructure construction in accordance with the approved site plans before a Certificate of Occupancy is issued.
13. As-built plans shall be submitted to the town within 60 days of the completion of construction.

B. Conditions of Approval that must be met within the specified timeframes.

14. Within 5 months of this approval, a wetland restoration plan for jurisdictional impacts at the rear of the property must be approved by the NH Department of Environmental Services Wetlands Bureau.
15. Within 5 months of this approval, the property owner shall have secured the necessary zoning relief from the Kensington ZBA to permit any permanent disturbances to Hydric A and Hydric B soils under the requirements of Zoning Ordinance Article VI Section 6.1 Wetland and Hydric Soils Conservation District. The ZBA applications shall be provided to the Kensington Conservation Commission for review and comment.
16. Following town and state resolution of wetland violations, the property owner shall submit to the Planning Board for approval the following information for any trail modifications and wetland restoration activities: an erosion and sediment control plan, a stormwater management plan, an invasive species control plan, and a site plan showing the trail locations, dimension specifications, slope/cross sections, surface materials and any other supporting infrastructure.
17. Following completion of Conditions 14, 15, and 16 above, all wetland or other restoration activities required by the town and the state shall be completed before a Certificate of Occupancy is issued by the town.

All voted in favor.

At 10:27pm, Mike made a motion to close the public hearing. Mary seconded. All voted in favor.

At 10:28pm, Peter rejoined the Board as Chair.

New Business:

- Heritage Commission-Planning Board Liaison
 - The Board discussed the sitting position on the Heritage Commission. Vanessa will bring this to the Selectboard. Mike is interested, everyone on the Planning Board agreed that Mike could be the liaison.
- Driveway Designee- Road Manager
 - **At 10:36pm, Robert made a motion to designate David Buxton as the Driveway Designee expiring April 2021. Mike seconded. All voted in favor.**
- Budget for 2020
 - The Board reviewed the budget for 2019 and discussed the budget for 2020. There was brief discussion of the Build Out Analysis and that that potentially could be put out as a warrant article. **At 10:45pm, Mike recommended that the Board use the same budget plus the circuit rider cost plus the dues. Jim seconded. There was no vote taken.**
- Order of zoning books from RPC
 - **At 10:50pm, Mike made a motion that 16 books and 1 CD be purchased as proposed. Jim seconded. All voted in favor.**
- Possible ordinance compliance issues of recently installed signage at Country Brook Café
 - The Board will discuss at the next meeting, although Mary requested that all restaurants in town are treated the same.
- Discuss / generate a list of all non-conforming buildings / businesses in town
 - The Board will discuss at the next meeting

OTHER BUSINESS:

- Water Testing – possible addition to ordinances
 - The Board will discuss at the next meeting
- Building Permit section of zoning possible updates to comply with new code regulations.

- The Board will discuss at the next meeting
- Moulton Ridge Road Culvert update
 - The Board will discuss at the next meeting

At 10:57pm, Robert made a motion to approve minutes from September 17, 2019. Mike seconded. Jim abstained. All others voted in favor.

The next meeting is November 19, 2019.

At 11:00pm, Mary made a motion to adjourn. Mike seconded. All voted in favor.

Respectfully submitted,

Chelsea Lalime