

KENSINGTON PLANNING BOARD MEETING  
Virtual Meeting due to COVID-19  
TUESDAY August 18, 2020 – 7:00pm  
Meeting Minutes - Approved - 9/15/2020

In attendance: Rob Chase, Chairman; Mary Smith, Vice Chair; Therese Wallaga, Member; Mike Schwotzer, Member; Jim Thompson, Member; Vanessa Rozier, Board of Selectman Representative; Christine Ouellette, Alternate; Julie LaBranche, Rockingham Planning Commission

*Vanessa's husband and children were in the room and Jim's wife was in the room. All other parties were alone.*

At 7:05pm, Robert called the meeting to order. At the time the meeting started, there were 12 participants on the call. Robert read through the NH State of Emergency E-Meeting Compliance Checklist and took roll call.

***At 7:10pm, Mary made a motion to allow Christine to act as full member for the duration of the meeting. Jim seconded. A roll call vote was taken by Rob. Mike voted yes, Mary voted yes, Jim voted yes, Therese voted yes, Vanessa voted yes and Rob voted yes. The motion passes.***

***At 7:12pm, Rob made a motion to open the first public hearing and read the following aloud:***

1. *Pinnacle Leadership Foundation with a physical location of Cottage Rear, Kensington NH, further identified as Map 6 Lot 13 and Pinnacle Leadership Foundation with physical location of 255 South Road, and further identified as Map 3 Lot 37, 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 Map 3 Lot 37 by 5.164 acres to result in 6.577 acres and enlarging Map 6 Lot 13 by 5.164 to result in 22.076 acres. **Withdrawn.***

***Mary seconded. A roll call vote was taken by Rob. Mike voted yes, Mary voted yes, Jim voted yes, Therese voted yes, Vanessa voted yes, Christine voted yes, and Rob voted yes. The motion passes.***

***At 7:14pm, Jim made a motion to accept the withdrawal without prejudice. Mike seconded. A roll call vote was taken by Rob. Mike voted yes, Mary voted yes, Jim voted yes, Therese voted yes, Vanessa voted yes, Christine voted yes, and Rob voted yes. The motion passes.***

***At 7:15pm, Mike made a motion to close the public hearing on Pinnacle Leadership Foundation. Jim seconded. A roll call vote was taken by Rob. Mike voted yes, Mary voted yes, Jim voted yes, Therese voted yes, Vanessa voted yes, Christine voted yes, and Rob voted yes. The motion passes.***

***At 7:15pm, Rob made a motion to open the second public hearing and read the following aloud:***

2. *Kenridge Farm LLC with a physical location of 283 North Haverhill Road, Kensington NH, further identified as Map 13 Lot 3-2 and Karen Monique Martell with physical location of 285 North Haverhill Road, and further identified as Map 13 Lot 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 with no change the acreage of the lots; Map 13 Lot 3-2 to remain 3.97 acres and Map 13 Lot 3 to remain 9.22 acres.*

***Mike seconded. A roll call vote was taken by Rob. Mike voted yes, Mary voted yes, Jim voted yes, Therese voted yes, Vanessa voted yes, Christine voted yes, and Rob voted yes. The motion passes***

Karen Monique Martell addressed the Board explaining that she is asking for a waiver and lot line adjustment due to the location of the pool house. Ms. Martell has been before the Board previously this year on this matter. It was explained that this is the result of mistakes that were made by a previous surveyor whose survey was used for a previous lot line adjustment. Due to the inaccurate survey, the pool house was infringing on the 100ft width requirement as a result of the new lot. There was discussion on which lines are the proposed new lot lines and which lines would be abandoned. It was suggested by Julie that there be a note change on the plan to more clearly state which line denotes what.

There was discussion on the sideyard setbacks and that in order to make all lots conforming, there would need to be adequate sideyard setbacks. The proposed configuration is least disruptive to the current use of the land. New monumentation would need to be installed along the new proposed lot line in addition to a Certificate of Monumentation being provided. There were no questions from the public. The Board reviewed the Lot Line Adjustment Checklist and proceeded through the checklist. **At 7:41pm, Mary made a motion to accept the application as complete. Jim seconded. A roll call vote was taken by Rob. Mike voted yes, Mary voted yes, Jim voted yes, Therese voted yes, Vanessa voted yes, Christine voted yes, and Rob voted yes. The motion passes.** The Board reviewed the Waiver Request from Kensington Subdivision Regulations Section 3.3. B Lot Shape Regulation. **At 7:49pm, Jim made a motion to grant the waiver under such criteria that strict conformity would pose unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulation. Therese seconded. A roll call vote was taken by Rob. Mike voted yes, Mary voted yes, Jim voted yes, Therese voted yes, Vanessa voted yes, Christine voted yes, and Rob voted yes. The motion passes.**

The Board reviewed potential conditions of approval for the lot line adjustment. **At 7:53pm, Jim made a motion to approve the application with the following conditions: a note to plan stating the lot lines to be abandoned are noted by the dotted line, a note to the plan that the proposed new lot line is noted with an arrow, completion of a Certificate of Monumentation by the surveyor, and an update to the plan to note the pre-lot line adjustment and post-lot line adjustment acreage and square footage equal in both lots. Mary seconded. A roll call vote was taken by Rob. Mike voted yes, Mary voted yes, Jim voted yes, Therese voted yes, Vanessa voted yes, Christine voted yes, and Rob voted yes. The motion passes.**

**At 7:54pm, Mike made a motion to authorize the Chairman to sign once the conditions have been reviewed and approved. Jim seconded. A roll call vote was taken by Rob. Mike voted yes, Mary voted yes, Jim voted yes, Therese voted yes, Vanessa voted yes, Christine voted yes, and Rob voted yes. The motion passes.**

**At 7:55pm, Mary made a motion to close the Martell public hearing. Jim seconded. A roll call vote was taken by Rob. Mike voted yes, Mary voted yes, Jim voted yes, Therese voted yes, Vanessa voted yes, Christine voted yes, and Rob voted yes. The motion passes.**

At 7:56pm, Mike recused himself for the next item on the agenda as he is a direct abutter.

**At 7:56pm, Rob made a motion to open the public hearing for the Batchelder Family Revocable Trust and read the following aloud:**

*Batchelder Family Revocable Trust, Edward and Beverly Batchelder, Trustees with a physical lot address of 149 Amesbury Road further identified as Map 9 Lot 2-3 and Felch Family Trust, Franklin and Kathie Felch, Trustees with a physical lot address of 137 Amesbury Road, Kensington, NH further identified as Map 9 Lot 2, for a Lot Line Adjustment and to Re-subdivide a lot of record in accordance with Article III Subdivision Regulations and Article III Section 3.2 G1 of the Kensington Subdivision Regulation,. The intent is for the property owners to adjust the current property lines and lot acreage by reducing the area of Map 9 Lot 2 by 0.189 acres to result in 24.49 acres and enlarging Map 9 Lot 2-3 by 0.189 to result in 2.01 acres.*

**Therese seconded. A roll call vote was taken by Rob. Mary voted yes, Jim voted yes, Therese voted yes, Vanessa voted yes, Christine voted yes, and Rob voted yes. The motion passes.**

Kathy Felch addressed the Board along with family members Samantha Felch, Martin Lawrence, Franklin Felch, Kathie Felch, and Travis Felch. It was explained that they are trying to correct a situation that in order to create a buildable lot. The applicant is trying to enlarge the lot to comply with Planning Board meeting minutes dating back to 2000. Rob stated that though the application states this is for a subdivision, there is some question as to whether the initial subdivision ever actually happened. This matter was forwarded to town counsel for review and the Board has not yet received an opinion from legal. It appears that although a deed exists, the Planning Board may have never actually approved the subdivision. Rob suggested that the Board wait until more information is available from counsel to make a decision. Kathy explained that taxes have been paid separately on the lot in question. There was question as to whether this particular lot would be considered a buildable lot as a result of the lot line adjustment, and Section 3.2 G.1 were referenced noting that according to the tax card, this lot has been classified as unbuildable. There were two successful

test pits done in June of this year. Julie expressed that she feels the Conditional Use Permit Application for Steep Slope to access the driveway is lacking some details such as the slope and exact grade of the driveway. The Board reviewed the presented engineered plans for the driveway and noted that they would need to be submitted and reviewed to the Town Engineer for comment. There was discussion on the location of the proposed driveway, the steep slope and possible access from Pevear Lane, a Class VI road. The applicant was reminded of Section 4.2 on driveways and it was noted that a plan including drainage, stormwater management and erosion control would be required. Jim recommended that the Board complete a site visit to get a better idea of the slope and the land they are talking about prior to making any decisions. Rob suggested to the Board that they wait until all of the information can be compiled before they can take action as it is not yet clear if this needs to be addressed as a subdivision or lot line adjustment. **At 8:53pm, Jim made a motion to continue the public hearing until more information is available. Mary seconded.** Vanessa confirmed that this is what the applicant wants. The applicant confirmed they do not want to withdraw. The Board reiterated that this is a question of whether this is a lot of record, and that they would like to see the engineering on the proposed driveway to ensure that potential drainage issues would be mitigated. It was noted that the ordinance asks for comment from the Conservation Commission regarding steep slopes. Mike, as a member of the public, reiterated that there are concerns as to whether this is a buildable lot. **A roll call vote was taken by Rob. Mary voted yes, Jim voted yes, Therese voted yes, Vanessa voted yes, Christine voted yes, and Rob voted yes. The motion passes.**

**At 8:59pm, Mary made a motion to close the public hearing. Jim seconded. A roll call vote was taken by Rob. Mary voted yes, Jim voted yes, Therese voted yes, Vanessa voted yes, Christine voted yes, and Rob voted yes. The motion passes.**

At 9:00pm, Mike rejoined the meeting. The Board took a brief recess at 9:00pm and reconvened at 9:05pm.

## **1. Status Report on Conditions of Approval**

### **a. 152 Drinkwater**

- Attorney Jacob Marvelley who represents Richard Parker and Karen Parker Feld addressed the Board stating that his clients have concerns about the 152 Drinkwater Rd project, some of which were voiced at the October 2019 Planning Board meeting. Attorney Marvelley explained that the concerns of his clients have continued and developed as the construction has gone on. His clients are particularly concerned with protecting the neighborhoods and the ecology in town and have serious concerns about the environmental impact. Among those concerns are specifically the filling in of wetlands, that the wetlands have not been remediated, and that there appears to be an increase in runoff onto the street and the field and meadow areas. In addition to that, there appears to have been significant tree cutting that may be infringing on conservation easements on the property. Mr. Parker has concerns that the site work may have disturbed a 1 person burial site, that markers that has been placed as boundary markers when he was a surveyor have been disturbed, and that the truck traffic has been occurring late at night. Attorney Marvelley's clients are asking that the Board consider whether the developer is complying with the conditions that were imposed and their obligations to the Board. Vanessa recommended that if his clients believe there are enforcement issues, a letter be presented to the Board of Selectmen for enforcement on an individual basis as the Planning Board does not have jurisdiction. Rob noted that the Planning Board is tracking compliance from an engineering standpoint and explained that there is a document outlining the construction process for coordination with the Town Engineer. Those documents are available. Rob reported that Chief True let him know that there have been unforeseen challenges pertaining to the cistern and they are working on a solution, however there may be a slight change to the plan as a result.

### **b. Buxton Subdivision**

- There have been no changes in the past month. The Town is still awaiting the mylar from Peter Landry so that it can be signed and recorded at Rockingham County.

## **2. Subcommittee Updates**

### **a. Growth Management**

- Julie and Rob reported that they had a brief discussion about how other towns have handled this. They will continue to work on this over the next few weeks.

### **b. Application Process Improvement**

- Vanessa reported that she will be drafting a checklist after meeting with Town Hall staff to discuss templates that might be helpful. Julie suggested that more guidance for applicants be provided as to what materials need to be provided to the Board with applications and recommended hyperlinks be included on the forms online directing applicants to the ordinance or regulation that applies to the request. It was also suggested that the actual checklist the Board uses be included in the application itself so applicants know exactly what the Board expects when reviewing the request.

#### **OTHER BUSINESS:**

Mike gave an update that the ZBA approved the Welch Living Trust for Journeyman Truck Company to lease a bay at 13 North Rd at their last meeting. One of the conditions of approval was a site plan review done by the Planning Board per the regulations. Due to timing, it could not happen during this meeting due to noticing requirements. The Board discussed the possibility of changing the requirements for site plan reviews that are the result of a ZBA decision.

The Board discussed using a “Minor Site Plan” checklist that would be less intensive than a regular site plan checklist. Vanessa questioned if there was an option for a waiver of some sort that the applicant could be granted that would eliminate the need for a site plan stamped by an engineer as the building is being reused and impervious surfaces are not being changed. Mike explained the ZBA felt there was no reason to require an engineered plan and accepted a hand drawn plan because only the use is being changed; there is nothing being changed to the actual property and Mike suggested that the Planning Board follow suit for a case like this one. Julie pointed out that because the regulations are not specific, the Board could choose to handle matters like this on a case by case basis until the regulations are amended. It was suggested that a questionnaire be developed to help in determining if a full site plan review should be required, waiving anything unnecessary to focus on what is relevant to each individual application. This could be done during a public hearing to differentiate a “Full Site Plan Review” from a “Minor Site Plan Review”, which would be decided by using the questionnaire/checklist. Mike felt that this would also help the ZBA to know what the Planning Board will require. The Board agreed that this would simplify the process both for applicants and the Board.

The Board reviewed the minutes from the July 21, 2020 meeting. ***At 9:46pm, Mike made a motion to accept the minutes for July 21, 2020 as presented. Therese seconded. A roll call vote was taken by Rob. Mike voted yes, Mary voted yes, Jim abstained, Therese voted yes, Vanessa abstained, Christine voted yes, and Rob voted yes. The motion passes.***

The Board reviewed an email from Joe Pace, Chairman of the Board of Selectmen asking for the Planning Board’s feedback on reopening the town hall. There is a plan that has been designed for the space to accommodate 6 foot social distancing, in addition to added technology that would allow for a hybrid meeting (some attendees in person, some attendees remote). Up to 9 members of the public, in addition to the Board, could be accommodated in the meeting room space and all others would need to participate remotely. Some members of the Board are in favor of returning to in person meetings with masks required, though it was acknowledged that the masks could make it difficult for those attending remotely to understand. Other members stated that they would not be comfortable returning to in-person meetings anytime in the near future. There were some logistical questions involving the use of the podium and microphone for the public, cleaning of the building, use of the bathrooms, and how the members of the public allowed in person would be determined. There was concern over the functionality and possible clarity issues in the hybrid scenario. Rob would prefer that everyone is in the same place, either online or in person. There were concerns over the ability to enforce a mask requirement for in person meetings. Vanessa will bring the feedback from the Planning Board to the Board of Selectmen who will be evaluating all feedback.

The next meeting will be held Tuesday, September 15, 2020 at 7pm via Zoom.

***At 10:08pm, Mike made a motion to adjourn. Therese seconded. A roll call vote was taken by Rob. Mike voted yes, Mary voted yes, Jim voted yes, Therese voted yes, Vanessa voted yes, Christine voted yes, and Rob voted yes. The motion passes.***

Respectfully submitted,

Chelsea Lalime