

KENSINGTON PLANNING BOARD MEETING
Virtual Meeting due to COVID-19
TUESDAY October 20, 2020 – 7:00pm
Meeting Minutes - Approved - 11/17/2020

In attendance: Rob Chase, Chairman (alone); Mary Smith, Vice Chair (alone); Therese Wallaga, Member (alone); Jim Thompson, Member (alone); Mike Schwotzer, Member (alone); Vanessa Rozier, Selectman's Representative (alone); Julie LaBranche, Rockingham Planning Commission (alone)

At 7:03pm, Robert called the meeting to order. At the time the meeting started, there were 18 participants on the call. Robert read through the NH State of Emergency E-Meeting Compliance Checklist and took roll call.

PUBLIC HEARINGS:

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

Survivors Trust c/u Welsh Living Trust with a physical address of 13 North Road further identified as Map 11 Lot 30. For a Site Plan Review for Commercial use of an existing building for rental of a 30' x 30' portion of a garage. The proposed use was granted by Special Exception from the Zoning Board of Adjustment on August 4, 2020 under the Town of Kensington Zoning Regulations Article III, Section 3.3B.

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.

Mike recused himself because he also sits on the ZBA and was involved in that decision.

Pam Welsh explained to the Board that she is requesting a Site Plan Review for Commercial Use of an existing building. She explained that there has been a trucking and excavation business on the property since 1965, though the business has been reduced over the years to a small gravel pit. Ms. Welsh plans to rent the existing building on her property to Don Pennfield, owner of Journeyman Truck Sales as a way to help maintain the property. Mr. Pennfield plans to rent the shop for his used truck sales business. It was explained that in order for Mr. Pennfield to get his dealership license renewed by the state, the property needs to be recognized as a commercial property. Ms. Welsh explained that there are no changes to be made on the property; the truck sales business will have fewer trucks on the property than when the Welsh Family business was operating. Robert read the conditions that were approved by the ZBA on 8/4/2020.

There was a brief discussion around potentially hazardous waste generated by the business. Mr. Pennfield explained that the only hazardous materials that would be generated would be waste oil. There is waste oil containment already on the property. Julie stated that the site plan application presented does not meet the criteria checked off on the checklist and that the applicant may need to ask for waivers. There were specific concerns that the provided boundary plan does not clearly show the building locations. Because the applicant has asked for a Site Plan Review for Commercial Use, everything on the checklist for site plan review should be documented. The Board went through the checklist. It was noted that it is likely that the entire survey image would be needed along with possible additional work to include the buildings with the dimensions. The surveyors name was present for a boundary but not for a site plan and may require a waiver to comply with regulations. It was noted that the ZBA took into account that this property was once the location of a trucking business and this is a slight modification of the use. The applicant confirmed there is no significant change in the use of the building or the property as there has been a trucking business onsite since 1965. Pam said she can provide the full blueprint but only provided what pertained to that plot of land because nothing really is changing. Julie suggested that the Board needs to be very clear as to what the property can be used for and encouraged the Board to ensure that it has all the information the Board will need to make a decision and the Town will need to have on file. The Board continued through the checklist and determined a full version of the plan was required with the necessary dimensions added, abutters names need to be keyed on the plan, the north arrow should be present, as well as locust map, location and dimensions, area of the lot, the easement, location of parking spaces and loading docks noted, there should be a measurement from the commercial building to the wetland. There was discussion on the septic system. The plan should clearly note where the septic system is and a septic plan provided if possible. Ms. Welsh stated that the septic was constructed in 1972 and installed by her father who was an installer. The applicant stated that there may

have been an inspection done previously and will further research that. It was requested that the driveway be shown and where parking would be.

The Board took questions from abutters. Bob and Linda LaRoche of 3 North Rd stated they want Ms. Welsh to succeed, but their only concern is how the neighborhood would be protected when there is a large piece of commercially zoned land in the middle of a residential zone if that change remains with the property. It was explained that the ZBA decision only grants commercial use within the conditions put on the decision and Julie clarified that a commercial venture in the space that was proposed was granted, but the property is not rezoned in its entirety. Sarah Goodman of 20 North Rd asked where this would be submitted to be finalized. It would depend on the Planning Board's waiver of any requirements of a site plan; there are very strict rules as to how site plans that are recorded are drawn up.

Rob suggested continuing the public hearing until the next meeting to the applicant can address the items identified throughout the discussion this evening. **At 8:27pm, Jim made a motion to continue the application until the next meeting with the presentation of additional information. Therese seconded. A roll call vote was taken by Rob. Mary voted yes, Jim voted yes, Therese voted yes, Vanessa voted yes, and Rob voted yes. The motion passes.**

At 8:30pm, Mary made a motion to close the public hearing for the Welsh Living Trust. Vanessa seconded. A roll call vote was taken by Rob. Mary voted yes, Jim voted yes, Therese voted yes, Vanessa voted yes, and Rob voted yes. The motion passes.

Mike rejoined the Planning Board as full member at 8:33pm.

At 8:34pm, Rob made a motion to open the public hearing and read the following aloud:

Michael and Patricia DeCaprio with a physical address of 31 Osgood Road further identified as Map 12 Lot 16-1. The applicant wishes to apply for a Conditional Use Permit as defined by Zoning Ordinance under Article III, Section 3.2.3 Accessory Dwelling Unit to allow addition to existing bedroom/bathroom above garage, and expansion of the garage to accommodate a kitchen on the second floor.

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, and Rob voted yes. The motion passes.

Mike DeCaprio explained that he wishes to add an ADU addition to his home that would be roughly 700 square feet. The Board reviewed the application. There was discussion on the septic system. The applicant stated that there is no hard copy or digital copy of the plan available, and he has reached out to Rockingham County Conservation District. The home is currently a 3-bedroom home and has a septic that supports that number. After the ADU is completed, Mr. DeCaprio stated that the home would still be 3 bedrooms, as the space that will be used for the ADU is the master bedroom currently. Julie noted that ADU zoning required there be proof of adequacy of a septic system and that sometimes for septic purposes the ADU is considered to be a 1+ bedroom and cautioned the applicant that the 3-bedroom design may not be adequate, but that he should inquire with the NH DES Subsurface Bureau. There is a possibility that the applicant would be required to provide a replacement plan/expansion plan in event the current system fails (K in ADU zoning ordinance). The system was pumped and inspected in June of 2020.

There were no questions or comments from members of the public.

Jim suggested that the Board consider a conditional approval subject to the septic compliance with all DES regulations. Mike agreed. There was discussion around RSA 485-A:38 pertaining to requirements for septic system approval and the zoning section 3.2.3G. It would be up to DES to determine if the current septic is adequate for the ADU. There was additional discussion as to whether the town regulations need to be fulfilled prior to construction or before the Certificate of Occupancy is issued. The Board needs evidence that the existing septic is adequate per DES standards. **At 9:17pm, Mike made a motion to approve the ADU at 31 Osgood Road with the condition that the property owner shall provide evidence to the Planning Board that the septic system is in accordance with RSA 485-A:38 before a certificate of occupancy is issued. Jim seconded.** There was continued discussion by the Board as to when the proof of adequate septic must be provided. It was discussed that this could be a two-phase process, and the exterior garage could be built

and the interior ADU would be in a second phase thus not affecting the applicant's timeline in the event that the septic was deemed inadequate. The applicant explained that his understanding based on conversations with Rockingham County Conservation District is that if the septic is currently deemed inadequate, he could still be granted the ADU, however must have a septic plan designed and ready to implement in the event of a failure. The Board discussed that the building permit could be issued for the ADU without the septic information. **At 9:26pm, Mike withdrew his motion and Jim subsequently withdrew his second.**

At 9:26pm, Mike made a motion to approve the ADU request for 31 Osgood Rd, however prior to the issuance of the building permit for the ADU section of the new construction, the applicant must comply with Section 3.2.2-4G referencing the septic requirements. 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 9:30pm, Mike made a motion to assign Rob and Julie to review and ensure compliance of the septic requirement for the ADU at 31 Osgood Rd. 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 9:31pm, Jim made a motion to close the public hearing. Vanessa 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 9:33 Mike recused himself from the next two public hearings as he is an abutter.

At 9:33pm, Rob made a motion to open the public hearing and read the following aloud:

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 Minor Subdivision in accordance with Article III Subdivision Regulations for the Town of Kensington. The intent is for the property owners to subdivide one 2.01-acre parcel from the 26.5-acre parcel know as Map 9 Lot 2.

Therese involuntarily left the meeting at 9:33pm due to technical issues.

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

Kathy Felch provided an update to the Board since the last meeting on behalf of her family. The deed has been turned over to the Felch Family Trust so the parcel is now all under one owner and the parcel is now all one lot, the previous partial subdivision no longer exists. The applicant chose the location for the lot because the access would be from Amesbury Road and not Pevear Lane, a Class VI road. There was discussion on Section 3.2.2 B.2 of the Zoning Ordinance regarding the driveway access for a Class VI. The Board felt that there was a significant number of potential challenges regarding the steep slopes of the driveway. Mrs. Felch stated that many of the questions from Dennis Quintal, the Town Engineer for this application, have been answered. There was discussion as to if there can be a buildable lot on a Class VI road. The Board felt that the letter from Mr. Quintal raises many questions and that the consulting engineer for the project, Christian Smith, should be responding to the questions. Julie expressed concern that the lot that the Felch family would like to create is in an area where there already a significant amount of runoff. The applicants responded that there has never been a complaint from the State regarding the runoff. There was a brief discussion as to whether the Town or State would have jurisdiction where this is a State road, but the erosion control and stormwater management is part of the subdivision regulations with the town. Julie stated that the Planning Board has jurisdiction up until the right-of-way where the DOT jurisdiction begins. The Board explained that the subdivision application seems straightforward with the exception of adequate access to the driveway. It was suggested that the subdivision could be approved with the condition of the approval of the steep slopes. The Board reviewed the checklist for the subdivision. It was noted that because Beals & Associates was involved in the Steep Slopes application, they should not be reviewing the subdivision. The Board felt that the same engineer should review the entire application, in this case Dennis Quintal. The applicants expressed frustration with the process and asked the Board to establish and implement a better process. It was determined by the applicant and the Board that the hearings related to the Felch Family Trust should both be continued to the next meeting.

There were no questions or comments from the public.

At 10:26pm, Vanessa made a motion to continue the public hearing. Jim seconded. A roll call vote was taken by Rob. Mary voted yes, Jim voted yes, Vanessa voted yes, and Rob voted yes. The motion passes.

At 10:28pm, Rob made a motion to open the public hearing and read the following aloud:

Conditional Use Permit in accordance with Zoning Ordinance Article VI Section 6.2 Steep Slopes District for 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, to allow 5,870 square feet of disturbance to steep slopes to permit a driveway and access easement across Map 9 Lot 2.

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

Therese rejoined the meeting.

The applicants requested to continue to the next meeting. The Board agreed. At 10:29pm, Vanessa made a motion to continue 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, and Rob voted yes. The motion passes.

Vanessa commented that the hearings tonight demonstrate the need to improve the process for the Planning Board. It seems that one of the biggest issues comes when information is not received from the applicant with adequate time to review. Vanessa feels that the Board needs to set deadlines and begin strictly enforcing them. She noted that it can also be problematic when reviews are not received back from the RPC Circuit Rider Planner or engineers with enough time to review prior to a meeting.

At 10:32pm, Mike rejoined the Board.

UPDATES ON PRIOR BUSINESS:

5. Status Report(s) on Prior Applications' Conditions of Approval, when applicable
 - Rob signed the Mylar for the Buxton Subdivision and Martell lot line adjustment
6. Subcommittee Updates – There are no updates for either subcommittee.
 - a. Growth Management
 - b. Application Process Improvement

Rob updated the Board that there is a process through the Board of Selectmen underway to accept Tannery Way as a town road. The Board is still holding funds in the event repairs are required. The acceptance process will require a vote at town meeting.

OTHER BUSINESS:

The Board reviewed the minutes from the September 15, 2020 meeting. Rob noted that the spelling of Keri Marshall's name needs to be corrected. Mike requested that the page numbering be corrected. ***At 10:41pm, Jim made a motion to approve the minutes from September 15, 2020 with the above changes. Therese seconded. A roll call vote was taken by Rob. Mike abstained, Mary voted yes, Jim voted yes, Therese voted yes, Vanessa abstained, and Rob voted yes. The motion passes.***

Mike pointed out that the applicant can grant the Board an extension to the 60-day requirement with the Board having the option of denying the application. However, due to COVID-19 State of Emergency, there is no time limit in place.

There was a brief discussion on the Planning Board process improvement. Vanessa, Rob, Julie and Chelsea will work together on this.

The next meeting will be Tuesday, November 17, 7:00pm via Zoom.

At 10:53pm Mike made a motion to adjourn. 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.

Respectfully submitted,

Chelsea Lalime

APPROVED