

KENSINGTON PLANNING BOARD MEETING
Virtual Meeting due to COVID-19
TUESDAY November 17, 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), Glenn Ritter (alone), Christine Ouellette (alone),

At 7:03pm, Robert called the meeting to order. At the time the meeting started, there were 17 participants on the call. Robert read through the NH State of Emergency E-Meeting Compliance Checklist and took roll call.

At 7:10pm, Therese made a motion to appoint Christine Ouellette, Alternate member to act as a full voting member for this meeting only. Jim seconded. Rob took a roll call vote. Vanessa voted yes, Jim voted yes, Therese voted yes, Mary voted yes, Mike voted yes, and Rob voted yes. The motion passes.

Mike recused himself from all 4 public hearings as he is an abutter and also sits on the ZBA.

At 7:12pm, Jim made a motion to appoint Glenn Ritter, Alternate member to act as a full voting member for this meeting only. Therese seconded. Rob took a roll call vote. Vanessa voted yes, Jim voted yes, Therese voted yes, Mary voted yes, Christine voted yes, and Rob voted yes. The motion passes.

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. CONTINUED FROM OCTOBER 20, 2020

Therese seconded. Rob took a roll call vote. Vanessa voted yes, Jim voted yes, Therese voted yes, Mary voted yes, Christine voted yes, Glenn voted yes, and Rob voted yes. The motion passes.

Pam Welsh addressed the Board to explain the additional information she had provided since the last meeting. Ms. Welsh feels that everything the Board has requested has been provided at this time. There were no questions from the Board or the public pertaining to the application. The Board proceeded through the Kensington Minor Site Plan Format Checklist. 19:04.

At 7:33pm, Mary made a motion to accept the application as complete. Jim seconded. Rob took a roll call vote. Vanessa voted yes, Jim voted yes, Therese voted yes, Mary voted yes, Christine voted yes, Glenn voted yes, and Rob voted yes. The motion passes.

It was suggested that the Board require the same conditions enumerated as 1-7 from the ZBA. **At 7:36pm, Jim made a motion the approve the site plan as proposed with the same conditions #1-7 as the ZBA put on.** Julie suggested the following additional conditions: a complete list and quantities of chemicals and combustible materials to be stored in the building to be provided to the Fire Department, by both Roundhill Enterprises and Journeyman Truck Sales, pre-occupancy inspections to be completed by both the Fire Department and the Building Inspector and annual inspections of the business to be performed by the Fire Department. **At 7:45pm, Jim modified his motion to include all of the following conditions: limit of four (4) used vehicles on the property at any time, limit of one (1) used vehicle to be stored outside of the building, staff to be comprised of the owner and one (1) employee, average of five (5) or less visitors per day, hours of operation: Weekdays 8:00am – 4:30pm; Saturday 8:00am – 12:00pm; Sunday closed, business sign (maximum 14" x 48") to be mounted on building and visible from North Road- Sign permit required, test drives of "for-sale" vehicles prohibited from using Drinkwater Road south of the intersection with North Road, a complete list and quantities of chemicals and combustible materials to be stored in the building to be provided to the**

At 7:43pm, Rob made a motion to open the public hearing and read the following aloud:

Fire Department, by both Roundhill Enterprises and Journeyman Truck Sales, pre-occupancy inspections to be completed by both the Fire Department and the Building Inspector, annual inspections of the business to be performed by the Fire Department. Therese seconded. Rob took a roll call vote. Vanessa voted yes, Jim voted yes, Therese voted yes, Mary voted yes, Christine voted yes, Glenn voted yes, and Rob voted yes. The motion passes.

At 7:52pm, Jim made a motion to close the public hearing. Jim seconded. Rob took a roll call vote. Vanessa voted yes, Jim voted yes, Therese voted yes, Mary voted yes, Christine voted yes, Glenn voted yes, and Rob voted yes. The motion passes.

The Board took a 5-minute recess at 7:54pm and resumed at 7:59pm.

At 7:59pm, Rob made a motion to open the Felch public hearing for a minor subdivision 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. CONTINUED FROM OCTOBER 20, 2020

Jim seconded. Rob took a roll call vote. Vanessa voted yes, Jim voted yes, Therese voted yes, Mary voted yes, Christine voted yes, Glenn voted yes, and Rob voted yes. The motion passes.

Rob read correspondence from the applicants dated November 5, 2020 requesting a continuance.

At 8:00pm, Jim made a motion to continue the public hearing until December 15, 2020. Christine seconded. Rob took a roll call vote. Vanessa voted yes, Jim voted yes, Therese voted yes, Mary voted yes, Christine voted yes, Glenn voted yes, and Rob voted yes. The motion passes.

At 8:02pm, Christine made a motion to close the public hearing. Therese seconded. Rob took a roll call vote. Vanessa voted yes, Jim voted yes, Therese voted yes, Mary voted yes, Christine voted yes, Glenn voted yes, and Rob voted yes. The motion passes.

At 8:02pm, Rob made a motion to open the Felch public hearing for steep slopes 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. CONTINUED FROM OCTOBER 20, 2020

Jim seconded. Rob took a roll call vote. Vanessa voted yes, Jim voted yes, Therese voted yes, Mary voted yes, Christine voted yes, Glenn voted yes, and Rob voted yes. The motion passes.

Rob read correspondence from the applicants dated November 5, 2020 requesting a continuance.

At 8:04pm, Rob made a motion to continue the public hearing until December 15, 2020. Christine seconded. Rob took a roll call vote. Vanessa voted yes, Jim voted yes, Therese voted yes, Mary voted yes, Christine voted yes, Glenn voted yes, and Rob voted yes. The motion passes.

At 8:05pm, Christine made a motion to close the public hearing. Jim seconded. Rob took a roll call vote. Vanessa voted yes, Jim voted yes, Therese voted yes, Mary voted yes, Christine voted yes, Glenn voted yes, and Rob voted yes. The motion passes.

At 8:05pm, Rob made a motion to open the Artigliere public hearing and read the following aloud:

Stephanie Artigliere with a physical address of 48 Stumpfield Road further identified as Map 7 Lot 19-1. The applicant is applying for a Conditional Use Permit under Zoning Ordinance under Article III, Section 3.2.3 Accessory Dwelling Unit to allow for a detached accessory dwelling unit within an existing structure.

Jim seconded. Rob took a roll call vote. Vanessa voted yes, Jim voted yes, Therese voted yes, Mary voted yes, Christine voted yes, Glenn voted yes, and Rob voted yes. The motion passes.

Stephanie Artigliere and Nathan Kenison-Marvin addressed the Board to explain that they are applying for a Conditional Use Permit for an Accessory Dwelling Unit to allow for a detached accessory dwelling unit within an existing structure. The Board asked if there had been a variance granted for the size of the accessory dwelling unit in the past. Ms. Artigliere stated that in March of 2020, they were granted a variance from the ZBA to increase the size of an ADU, however have made the decision to not use that variance and plan to keep the unit within the allowed 900 square feet as it is no longer their intent to raise a family in the space and instead, Ms. Artigliere's father plans to occupy the ADU. The Board reviewed the floor plan that was provided. There was discussion on whether the 96 square feet of "unheated non-living space" should be considered living area and should be factored into the 900 square feet permitted. It was determined that if it was to be considered living area, the total area would be 991 square feet. The applicants stated that the representations that were made to the ZBA for the variance that have changed, and they do not feel the variance still applies.

The Board reviewed the setbacks. Mr. Kenison-Marvin noted that the existing structure is within 13 feet from the property line, within the 25-foot setback. The applicants explained that they do not feel the setback requirement applies as the language of the zoning for the 25-foot setback requirement is for new structures or the repositioning of existing structures. The applicants do not plan to expand on the current structure or reposition. Mr. Kenison-Marvin pointed out that the structure existed prior to the lot line that was put in place in 1986, referencing subdivision plan D-15593 dated September 4, 1986.

Steven Wilson, an abutter, questioned the legitimacy of the lot lines represented on the plan. There was discussion by the applicants, Mr. Wilson and the Board as to why there has not been a more recent survey. This would likely be considered a grandfathered non-conforming structure as there is no new exterior construction; the interior can be remodeled. The plan is signed by the Planning Board, recorded at the registry of deeds, and stamped by a surveyor. Mr. Wilson stated he thinks this would be considered a change of use and that the applicant should provide evidence of the lot lines. Julie said that if a lot line is memorialized on a subdivision, signed and recorded, there is evidence. It is believed the structure was built in the 1930s and was present when the lot line was created. Julie expressed that she doesn't see more proof as necessary as the structure is shown on the approved plan. It was explained that often it is called a parcel rather than a lot because there has not yet been a designation. There was discussion as to when the lot line existed and the presence of the stone wall on the property. Mr. Wilson stated that he raised similar issues in front of the ZBA.

Mr. Wilson questioned if the applicants planned to add windows or doors to the structure on the side that would face his own property and expressed that there would be negative impacts to his own privacy and property if there were plans to do so. Julie stated that natural expansion to a non-conforming structure is permitted, though the applicants stated they have no plans to add windows or doors on that side. There was brief discussion as to who is permitted to live in an approved ADU and it was noted that there are no restrictions as to who can occupy an approved unit.

The applicants have met the requirement of being 50 feet from the adjacent structure; there is some spirit of compliance. Mr. Wilson had concerns that if this ADU was permitted, he would not be able to relocate his own barn to where it had previously been in 1832. There were no other questions from members of the public.

The Board noted that the detailed floorplan does not show egress doors and windows. Norman Giroux, Building Inspector, said that for a building permit to be issued, this information would be required. Julie cautioned the Board on restricting the location of windows and doors because there is a possibility that a restricted location could be the only location they could go. Norman stated that he has been to the site and plans to bring the building up to code have been provided to him. There was a brief discussion on egress requirements.

The Board reviewed the checklist. ***At 9:30pm, Jim made a motion to accept the application as complete. Mary seconded. Rob took a roll call vote. Vanessa voted yes, Jim voted yes, Therese voted yes, Mary voted yes, Christine voted yes, Glenn voted yes, and Rob voted yes. The motion passes.***

The Board discussed the setback concerns that were expressed. Additionally, the Board felt it was unclear as to if the application meets requirement K of the checklist; the Accessory Dwelling Unit shall conform to all dimensional requirements per Zoning Ordinance Section 3.2. The Board also discussed Section 4.4. of Zoning, Section C, addressing the expansion of a conforming use or structure for a purpose or manner that is substantially different. It was noted that in one of the photos, it appears as though it may have been built to be used as a bedroom, though there is no bathroom or kitchen. Julie doesn't think that Section 4.4. would apply in this situation as there is no non-conforming use to be expanded. There is a change in use but not an expansion of use, and a detached ADU is lawful. The Board feels that they need to consult with Town Counsel for a better understanding of how this would apply and research the unheated non-living space. **At 9:54pm, Mary made a motion to continue the public hearing to the December 15, 2020 meeting.** There was brief discussion as to why this would be continued and it was determined that the Board would like the opinion of Town Counsel. **Jim seconded. Rob took a roll call vote. Vanessa voted yes, Jim voted yes, Therese voted yes, Mary voted yes, Christine voted yes, Glenn voted yes, and Rob voted yes. The motion passes.**

At 9:58pm, Glenn made a motion to close the public hearing. Christine seconded. Rob took a roll call vote. Vanessa voted yes, Jim voted yes, Therese voted yes, Mary voted yes, Christine voted yes, Glenn voted yes, and Rob voted yes. The motion passes.

NEW BUSINESS

Budget Discussion

- The Board briefly discussed the budget for 2021. Additions to the budget will include administrative support and PDF software. Mary would like to see funds in the budget so that members can participate in trainings if they wish to do so.

UPDATES ON PRIOR BUSINESS:

- Status Report(s) on Prior Applications' Conditions of Approval
 - There are no updates to report.
- Subcommittee Updates
 - Growth Management – There are no updates. Vanessa informed the Board that at the Board of Selectmen meeting the Charette came up and a representative will likely be coming to the Planning Board to discuss.
 - Application Process Improvement – A subcommittee is working on this and has prioritized the applications and checklists used the most and they are being updated.

The Board discussed the need to ensure that applications are substantially complete when submitted in addition to submitted with enough lead time for the Board to review. Initial applications must be complete and delivered to the Town, no later than 21 days prior to the Planning Board meeting for which the application will be considered. Modifications to continued applications and supporting documentation must be complete and delivered to the Town no later than 14 days prior to the Planning Board meeting at which the modifications will be considered. Any subsequent modifications or supporting materials after the deadlines have passed must be presented by the applicant to the Board at the time of the scheduled meeting or public hearing.

The Board reviewed minutes from the April 23, 2020 and October 20, 2020 meetings. **At 10:31pm, Jim made a motion to approve the minutes from April 23, 2020 as written. Therese seconded. Rob took a roll call vote. Vanessa voted yes, Jim voted yes, Mike voted yes, Therese voted yes, Mary voted yes, Christine voted yes, Glenn abstained, and Rob voted yes. The motion passes.**

At 10:32pm, Mary made a motion to approve the minutes from October 20, 2020 as written. Therese seconded. Rob took a roll call vote. Vanessa voted yes, Jim voted yes, Mike voted yes, Therese voted yes, Mary voted yes, Christine abstained, Glenn abstained, and Rob voted yes. The motion passes.

The Board received an email from an abutter of 142 Amesbury Rd. The abutter has concerns that the property is listed as having a grandfathered commercial use. There has been outreach on behalf of the Board to the real estate agent to ask further questions and let her know the Board received a letter of concern from an abutter.

At 10:38pm, Therese made a motion to adjourn. Jim seconded. Rob took a roll call vote. Vanessa voted yes, Jim voted yes, Mike voted yes, Therese voted yes, Mary voted yes, Christine voted yes, Glenn voted yes, and Rob voted yes. The motion passes.

Respectfully submitted,

Chelsea Lalime

APPROVED