

KENSINGTON PLANNING BOARD MEETING
at Kensington Town Hall Meeting Room, 95 Amesbury Rd, Kensington, NH
TUESDAY June 22, 2021 – 7:00pm
Meeting Minutes – Approved 7/21/2021

In attendance: Robert Chase, Chairman; Mary Smith, Vice Chair; Vanessa Rozier, Member; Bob Solomon, Selectman's Representative; Christine Ouellette, Member; Mike Schwotzer, Member;

Andy Clarke was present as Land Use Clerk. Matthew Armstrong was present as Road Manager.

Marilyn and Brian Bott, Sally Buchanan and Amy Mastronardi were present as members of the public.

John Arnold represented the Lewis Family Foundation. Paul Tarnowski was present representing the buyers of one property.

Corey Colwell of TF Moran and Emile Bussiere were present representing Hog Hill Preserve LLC.

At 7pm, Robert called the meeting to order.

At 7:04 Robert made a motion to open the Public Hearing for Hog Hill Preserve, LLC and read the following aloud:

TF Moran, Inc. c/o Corey Colwell on behalf of Hog Hill Preserve, LLC with a physical location of 104 South Road, Kensington NH further identified as Map 4 Lot 41 have submitted a Subdivision application for a 3-lot subdivision in accordance with Article III Subdivision Regulations for the Town of Kensington. A portion of the parcel involved is also located in East Kingston, NH. This item was continued from May 18, 2021 meeting.

Mike seconded. Robert took a voice vote. All in favor. The motion passes.

Robert asked if the applicant would like to combine the application. The applicant agreed.

At 7:06pm, Robert made a motion to open the Public Hearing for Hog Hill Preserve, LLC and read the following aloud:

TF Moran, Inc. c/o Corey Colwell on behalf of Hog Hill Preserve, LLC with a physical location of 14 Bartlett Road, Kensington NH further identified as Map 4 Lot 3 and TF Moran, Inc. c/o Corey Colwell on behalf of Hog Hill Preserve, LLC with a physical location of 2 Bartlett Road, Kensington NH further identified as Map 4 Lot 7-1 have submitted a Lot Line Adjustment application in accordance with Article III Section 3.2 G1 of the Kensington Subdivision Regulations. A portion of the parcels involved are also located in South Hampton, NH. This item was continued from May 18, 2021 meeting.

Mike seconded. All in favor. The motion passes.

Robert asked Mr. Colwell to provide an update and general overview of the application. Mr. Colwell explained that the cover letter, plans, order of operations and waivers had all been revised. He stated that the waivers now cited the regulations relative to them. The new sequence of events, listed in TF Moran's cover letter and on the cover sheet of the plans, was described.

Mr. Colwell explained that the purpose of the Subdivision was to create two new residential lots fronting on South Road.

A new voluntary merger, paired with the Lot Line Adjustment application, was discussed which would bring Map 1 Lot 1 and Map 1 Lot 2 into Map 4 Lot 7-1 to create one larger parcel for recreational uses, and he felt that it would make the parcel more rectangular.

Mr. Colwell explained that the southerly boundary of Lot B of Map 4 Lot 41 was changed in the plan set to make the lot line more rectangular. He stated that the buyers of Lot B have horses and need as much land as possible for a paddock for the horses. He added that there were more monuments to be set along that boundary than were currently reflected on the plan set in order to make it clearly visible.

Mr. Colwell discussed a Steep Slopes map that was submitted and that the purpose of this plan was to show that the remaining land of Map 4 Lot 41 after creation of Lots A and B was unbuildable. He noted that any area that was shaded red in the 17-acre remaining parcel was a steep slope, which would make access very difficult.

He discussed a letter from Gove Environmental Services regarding initial testing done at several sites wherein hand auger samples for seasonal high water tables indicated that none had sufficient depth to meet the town's required depth for septic design. He felt that the applicant had demonstrated that the intent was to preserve the property for recreation and that there was no intent to develop the property aside from what is being applied for currently.

Robert asked the Board if they had any questions for the applicant. Mike noted that on page S-3 of the plan set dated April 30, 2021, there was an "Outparcel" noted between Map 1 Lot 1 and Map 1 Lot 2. He asked about any legal determination of the ownership of that land. Mr. Colwell stated that on a 2001 preliminary sketch the outparcel was noted as +/- 8 acres, however the current tax map does not show the outparcel. He believed the rights had been conveyed into the Hog Hill Preserve LLC deed.

There was a discussion about the Steep Slopes plan and Soil Sample letter. It was determined that the steep slopes plan described only the remaining land in Map 4 Lot 41, and that the soil samples were taken only from the Map 4 Lot 3.

Mike asked if there should be a new application for the Voluntary Lot Merger. Mr. Colwell noted that a voluntary lot merger does not require approval of the Board and felt it does not need a Public Hearing or notice. Robert agreed that public notice is not necessary.

Robert asked if there were any other questions. He stated that the Board would review the waiver requests.

Robert noted that any waiver that The Board was to consider must meet one of two conditions, either:

1. Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations; or,
2. Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

The waivers were reviewed in order put forth in the cover letter given to The Board and discussed as follows. The first two waiver requests relate to the Subdivision application. The remainder relate to the Lot Line Adjustment application.

1) Soil Study – Mr. Colwell noted that the purpose of the soil study was to determine the property's development potential, i.e. septic and foundation. He noted that any area where they may have been a septic system or house there was a soil study was performed. Any area of the property that was to remain in its natural state would not have a soil sample and was the reason that they sought the waiver. Robert stated he agreed with the applicant's reasoning. Vanessa asked about the language that the Board was waiving, specifically "Soil Study" and asked that Kensington Zoning Ordinances 6.1.6, 6.2 and 6.3 be read aloud. There was discussion about the ordinances chosen for the waiver request and their applicability to the request. It was noted that a checklist item could be waived.

There was discussion about the necessity for a waiver where the two lots to be subdivided had already had soil samples taken, and the remaining land is to be merged into a lot already having a single-family dwelling.

At 8:02pm, Mike made a motion to reject the waiver request as proposed and not require any further action on the remaining portion of the land because the Board will have the soil study and lot size calculated as required for the 2 subdividable lots. Mary seconded. All in favor. Motion passes.

1) Lot Shape - The applicant is asking for a waiver to Subdivision Regulation 3.3.B.2.b. for special circumstances that would properly carry out the spirit and intent of the regulations. Mary asked if the correct plan sheet for Lot Shape was S-3, which the applicant confirmed. Mary asked why the lot line was at an angle and not straight across. Mr. Colwell noted that the goal was to leave as much land from the back lot and limit the development potential to just enough room to build a house, barn and horse paddock. He noted it was also so the lot lines were equidistant from the road frontage. Mike asked about steep slopes and whether the line was drawn to accommodate the steep slopes. Mr. Colwell stated that it was. Vanessa asked if waivers were granted for Lot Shape for the Subdivision application, would the Board by virtue be granting a waiver for the Lot Line Adjustment application through precedence. Robert felt that each waiver had to be addressed individually. There was discussion about whether the lot was shaped irregularly or not. Mike felt that the shape of the lot was not a square lot and served a specific purpose for the applicant.

At 8:16, Mike made a motion that we grant waiver request for the lot shape from the subdivision plan sheet S-3 regarding section 3.3.B.2.b for the specific reason that the circumstances and condition of the land indicate this to be the back line creating a parallelogram efficient in regarding steep slopes and the land for the use of the future owner. Mary seconded. All in favor. The motion passes.

Robert read through the Subdivision Plan Format checklist. Items were either addressed or not applicable. Mike noted that there was a stamp missing on sheet S-3. Mr. Colwell noted that the plan sheets might not be stamped. Robert noted that it could be made a condition. There was discussion about whether a 1" = 60' or 1" = 100' scale required on the checklist. It was determined that the scales on the subdivision checklist referred to the Site Plan Regulations, not the Subdivision Regulations.

At 8:30pm, Mike made a motion to accept the Application for TF Moran and Hog Hill as complete. Vanessa seconded. All in favor. The motion passes.

There was discussion about the Board's ability and willingness to move towards a vote to approve or deny in an expedited fashion. Mike felt the Board should proceed with discussing the Subdivision Application. Vanessa felt that, if there was a condition to ensure the merger so that there was no creation of an illegal lot, then she agreed with Mike.

Robert asked for public comment. Marilyn Bott of East Kingston asked about the 66foot right-of-way (access easement) on the easterly side of the lot that appeared on the initial plan sets, which has since been eliminated, per Mr. Colwell. She asked whether the remaining portion of land would be buildable. Mike explained the order of the merger and what the status of the lots would be after the merger. She asked if Map 4 Lot 3 has a house, which it does. She asked if the applicant would be open for a conservation easement, to which Robert answered that the applicants had stated at previous meetings that they do not intend to put any part of the property into conservation. She stated that there are properties abutting that are already in easement and hoped that the applicant would consider it.

Sally Buchanan of Kensington asked about the access easement from South Road and whether it had been eliminated. Mr. Bussiere explained that it had been eliminated. She asked if there were town regulations for paddocks. Mike stated that it was a permissible agricultural use.

Vanessa asked about iron rods to be set on the back boundary of the remaining lot. Mr. Colwell explained that the rods were noted on the plan but had been missed in the revision. These would be required every 100 feet. Vanessa asked if the transmission easement had been reviewed along the rock wall. Mr. Colwell explained that the existing easement was for underground electric. Lot B would need the easement in the event that issues need to be fixed on Lot A. This would give the right to maintain the underground electric. Robert asked if the easement continued to the remainder lot or ended at Lot B. Mr. Colwell stated that it ended there.

Vanessa asked about the leaching reserve areas on Lots A and B. Mr. Colwell stated that there was ample room for leach fields and in the case of failure. He explained Lot B does not require state approval for septic because it is over 5 acres. He also noted that the State of New Hampshire had approved the septic plans for Lot A.

At 9:00pm, Mike made a motion to approve the application of TF Moran on behalf of Hog Hill Preserve LLC, with a physical location of 104 South Road, Kensington, NH identified as Map 4 Lot 41 for a three-lot subdivision according to Article 3 Subdivision Regulations of the Town of Kensington to include the merger of the third lot on Map 4 Lot 41 with Map 4 Lot 3 with the following conditions:

- 1) Remove the soil study waiver request reference from plans.
- 2) Surveyor and soil scientists' signatures and stamps to be applied.
- 3) Monument and markers on proposed back of Lot B to be shown on the map.
- 4) Monument certification be supplied to the town.
- 5) The remaining land of Map 4 Lot 41 to be merged with Map 4 Lot 3 simultaneously with the recording of the subdivision.

Vanessa seconded. All in favor. The motion passes.

The Board moved to the waivers for the Lot Line Adjustment Application. Robert asked if the Board had any questions for the applicant for the Lot Line Adjustment for Map 4 Lot 3 and Map 4 Lot 7-1.

Robert described the existing plan and the lot lines and intent of the application. He noted that there would be a condition of the voluntary merger, to which the applicant had agreed.

Robert read through the waiver requests and TF Moran's reasoning for each request from the applicant's cover letter to the Planning Board.

- 1) Scale Requirement – (1" = 100' or less) - Mike noted that he was able to read distances, lengths, and wetlands not only on the 22" x 34" large format plan sets with a 1' to 300' scale but also on the 11" x 17" prints with a 1" to 600' scale and felt the request was reasonable. Robert agreed. This was for plan sheets S-4 and S-5. The granting of this waiver would be for special circumstances that would still carry out the spirit and intent of the regulations.

At 9:11pm, Mike made a motion grant waiver to allow the scale to be 1" = 300' due to the unique size of the overall property since the all the features are readable and recognizable and it would be a detriment to have multiple sheets to read and attach together. Mary seconded. All in favor. The motion passes.

- 2) Wetlands – Robert read the waiver request and reasoning. This applied to plan sheets S-4 and S-5. Zoning Ordinances 6.1.6, 6.2 and 6.3 were discussed in relation to the necessity of the waiver. It was noted that the checklist referenced the wetland requirement and would need to be noted there. Robert noted that there is an abundance of wetlands in each of the lots.. Robert asked Mr. Colwell about NH Granit wetlands delineation, to which Mr. Colwell stated it was noted on the plan sheets.

At 9:28pm Robert made a motion that the Board has decided that the wetland specific request for waiver is not necessary and not applicable. Mary seconded. All in favor. The motion passes.

- 3) Location of Septic System and Wells – Robert asked the applicant where the septic systems are. The applicant described on the map where the septic systems were. There was discussion about records on septic systems. Mr. Colwell stated that the systems were far away from the lot lines. Robert asked the applicants if they could find the plans for the septic system from the State to place on the plan sheets. Mike asked about references for the buildings on the property, which would help delineate the septic areas. Mr. Colwell noted that it was on plan S-6, the aerial photo. However, S-6 would not be a recorded plan. It was noted there would be a condition to find the location of the septic areas to place on plan sheets. Since the applicant agrees to place the septic locations on the plan, it was noted that a waiver is not necessary..
- 4) Monuments – Pertaining to plan sheets S-4 and S-5 – Section 3.3.G of the Subdivision Regulations. Mike asked if on plan sheet S-4 at the top of the point where the 2 lots merged, (point C), it was possible to place a boundary. Mr. Colwell noted that it was a swamp area. It was noted that it was an existing line. Vanessa asked if the waiver was approved if the iron rods around the boundaries surrounding the basketball and tennis courts would still be placed. Mr. Colwell stated that any new boundary point would have a monument. It was noted that this waiver was not contrary to the spirit and intent of the regulations.

At 9:46pm, Mike made a motion to grant the waiver for monumentation of the boundary corners not being adjusted on the Lot Line Adjustment plan due to the specific circumstances relative to the subdivision; specifically, the existence of the lots and the size of the area being covered by the two properties. Christine seconded. All in favor. The motion passes.

- 5) Lot Shape – Pertaining to Subdivision Regulation 3.3.B.2.b. Robert read the applicant's reason for the waiver. Mike also felt the waiver was still necessary because the Lot Line Adjustment is creating a tail shape issue. Robert asked about a parcel of property that was in South Hampton, Map 5 Lot 26. This property is also owned by Hog Hill Preserve. Mr. Colwell stated that the map needs to be updated to state Hog Hill Preserve as owner of that portion. Vanessa asked if South Hampton, Map 5 Lot 31 was also owned by Hog Hill, which Mr. Colwell stated it was. Mike felt that the waiver should be conditioned on the merger of Map 1 Lot 1 and Lot 2.

At 10:00pm Vanessa made a motion to grant the waiver for this application for the Lot Shape Requirement in 3.3.B.2.b due to specific circumstances relative to the conditions of the land which indicate the waiver would carry out the spirit and intent of the regulations with the condition of merging with Kensington Map 1 Lot 1 and Map 1 Lot 2 into Map 4, Lot 7-1. Mike seconded. All in favor. The motion passes.

Plan changes for the next meeting with the applicant.

At 10:04pm, Mary made a motion to continue the hearing for the Lot Line Adjustment for TF Moran until Wednesday, July 21, 2021. Mike seconded. All in favor. The motion passes.

At 10:05pm, Mike made a motion to close the public hearing for TF Moran for the Lot Line Adjustment. All in favor. The motion passes.

Robert asked for a 5-minute recess.

NEW BUSINESS

Therese Wallaga has resigned as a Full Member of the Board with a term ending 4/2022. The Board expresses its gratitude for her time and service to the Town of Kensington.

At 10:13pm, Mary made a motion to promote Josh Preneta, a current Alternate Member to Full Member with term expiring 4/2022. Mike seconded. All in favor. Motion passes.

Approval of Circuit Rider Contract for July 1, 2021 through June 30, 2022 - Julie LaBranche has resigned her position at the Rockingham Planning Commission (RPC) and as the Town of Kensington Circuit Rider effective June 18, 2021. Glenn Greenwood, a Kensington resident who had previously worked with the RPC for over 30 years, has a planner support role in Newfields, Kingston and Brentwood. The contract with Mr. Greenwood's LLC, GTG Planning, would have the same term and cost as the contract the Town has had with the RPC. The contract has been reviewed by the Board of Selectmen and was approved conditionally pending the approval of the Planning Board. In order to accommodate Mr. Greenwood's attendance at Kensington Planning Board meetings, our meetings will move from the third Tuesday to the third Wednesday of each month beginning on July 21.

At 10:21pm, Mary made a motion to approve the contract for Glenn Greenwood to become Circuit Rider for the Town of Kensington. All in favor. The motion passes.

UPDATES ON PRIOR BUSINESS

Updates for Prior Conditions of Approval – Minor changes have been made and are being worked on and followed as they arise.

Buildout Analysis – The Buildout Analysis has been approved by the Board of Selectmen. Robert Pruyne of the Rockingham Planning Commission has been given the necessary data to begin working on the analysis in July.

Growth Management – Glenn Greenwood and Janan Archibald are possible new subcommittee members.

Subdivision Regulations – It was noted that items that had been approved in prior meetings need to be updated in the regulations. Mary and Andy will continue to work on this item. The Rockingham Planning Commission will give any data they have acquired over time to the Board to help with this.

At 10:27pm, Robert made a motion to approve the minutes from the May 18, 2021 Planning Board meeting. Bob seconded. All in favor. The minutes are approved.

At 10:28, Mike made a motion to adjourn. All in favor. The meeting is adjourned, and the next monthly meeting will be on July 21, 2021 at 7pm.

Respectfully submitted,

Andy Clarke
Planning Board Clerk