

**KENSINGTON PLANNING BOARD
TOWN OF KENSINGTON, N.H.
KENSINGTON ELEMENTARY SCHOOL LIBRARY
TUESDAY, APRIL 21, 2015
7:30 PM
Meeting Minutes-Approved 5-19-2015**

In Attendance: Kate Mignone; Joan Whitney, Vice Chairman; Michael Schwotzer; Peter Merrill, Selectmen's Representative; Jim Thompson, Chairman; Bob Solomon

In Attendance: Bruce Cilley, Joan Webber, Elizabeth Elway, Donna Carter

Jim called the meeting to order at 7:29pm.

PUBLIC HEARING

Pursuant to NH RSA 675:7, notice is hereby given of a public hearing to be held by the Kensington Planning Board on Tuesday, April 21, 2015, beginning at 7:30 p.m. at the Kensington Elementary School Library, 122 Amesbury Road, Kensington, NH. The purpose of the meeting is to hold public hearings on the following:

1. Establishment of Escrow Account for Technical Review of applications under Site Plan Review and Subdivision Regulations.
2. Establishment of a Site Plan Review application for Wireless Telecommunications Applications.

The board went over the public hearing information and where the information would be applied to the zoning ordinances. Mike asked if there were numbers for Christian's review costs associated with the telecommunications applications. Mike explained that the board found that they would need an escrow account to be able to collect the money upfront for these kinds of applications. Kathy read the following fees estimated:

What is done	Cost	projected	description
30 Day Completeness	\$200-500		depending on existing or new tower
Compliance Review	\$400-500		steep slope/drainage/site plan-TOWN ORDINANCES/REGULATIONS
meeting attendance	\$100/hr		standard hrly rate
Removal of Tower	\$50,000-70,000		soft costs and actual construction costs
	\$67,000-94,000	10	10 years projected
	\$90,000-126,500	20	20 years projected

Joan stated that there should be \$800 up front and that the remaining funds will be returned, others were in agreement. Peter discussed the removal and wondered what the legal aspects would be for the town. Mike read the Telecommunications section from the zoning. This section stated that the cash or line of credit could be retained for the life of the project. Peter was wondering who would oversee these projects, and Mike explained the Selectmen would be as the enforcing agent for the town. The board does not see the reason for bonds or lines of credit that expire; they should be for the life of the project.

Jim opened the hearing to the public and Elizabeth Elway of Wild Pasture had a few comments:

- Would the town have money escrowed for reassessing property values due to a tower going in, which would decrease the value of the surrounding properties? Mike explained that if you file and abatement the town has to look at it. She believes that this is an issue.
- Would there be money escrowed for health and safety reviews, from health issues that could be caused? Mike had read the section of the ordinance that would deal with the removal of the tower. Peter expressed that those are known causes. Mike explained that the town would follow the federal and state regulations. It is not the purview of the board to act on that. The board understands the argument but they are not the board to address this issue. She is concerned that

this is new and not within the character of the town. Peter explained that this is not looked at by this board.

- Who will be noticed when a project is starting is it all properties within a ½ mile circle? Or will it just be direct abutters. Peter explained that if there was a particular site that would be coming before the board for consideration then there would be a public hearing. There are rules and it is direct abutters, as well as notification to a municipality within 20 miles, as well as the local newspapers in those communities. Bruce Cilley asked if there was a proposed site in Kensington right now, and the board does not currently have any applications. Peter explained that there was talk of expanding a tower over off of South Road in many of the Selectmen's meetings, but that has not been discussed for a while now. It was to be updated to aid in the Emergency Management and Police Department service area.

The following was read into the meeting by Peter:

Establishment of Escrow Account for Technical Review:

At the time of application, the town establishes the escrow account with funds provided by the applicant to cover the estimated costs of the 30 day completeness review (per the Federal Communications Commission and Telecommunications Act, as amended) for any application involving establishment of new or expansion of existing wireless communication facilities and professional engineering review or other type of technical review deemed necessary for preliminary consultation submissions and formal application submissions under the Site Development Plan Regulations. Any funds not expended for the purposes of the 30-day completeness review and subsequent professional and/or technical review of such applications as part of the Site Plan Review process shall be returned to the applicant following final decision on the application by the Planning Board.

This will be added to the procedure section of the Site Plan Review Section 4.3 Procedures as letter B and change existing section B to Letter C.

Motion to accept wording into the proposed section by Mike; seconded by Joan; all in favor.

The application for Telecommunications:

Joan has the copy of the proposed application for Telecommunications and she feels it is more of a complete application than what the board currently has. Julie explained that it brings in information that will be needed and this should be added as an addendum to the existing Site Plan Review Application. Under Section 4.4 all information would still be required, but this would just add further details needed in order to apply for a Telecommunications tower.

Mike asked if this should be referenced anywhere else in the ordinance. Julie agreed that was a good idea and will appear within section 4.4a1. Application for site plan review properly filled out and next sentence to state Application for Telecommunications Facility.

Joan made a motion to add as an addendum to the Site Plan Review the application for Telecommunications state model from the Office of Energy and Planning; and also add the application under section 4.4a noted that it needs to be properly filled out. Mike seconded all in favor.

Jim closed the public hearing at 8:10pm.

New Business:

Consult with KLCT Holdings/Farm at Eastman's Corner- Bruce Cilley, Representative:

Bruce Cilley approached the board and Mike read the section in the Subdivision regulations that states that the decisions tonight would not be binding on the applicant or the board. Mr. Cilley was viewing the lot as an expansion to an existing approved use, and he was unsure what the board thought about that.

This would be an addition that would go towards South Road off of the back of the existing structure.

Peter asked what the additional square footage would be. The total square foot addition would be 3890, with total existing 2884. The square footage on the plan was for the new addition not the existing square footage. Joan expressed that this is just encroaching more on the setbacks. In the commercial district the

setbacks are 100 feet on the front and 60 feet off of the back lot line. Mr. Cilley expressed that they would be adding on to the existing kitchen area. Mr. Cilley explained that the septic was upgraded and not what the previous owner of the property's design was. Julie asked about dishwashers and if any would be added. None are currently in the building and none will be added. Peter pointed out that the doors will be opening out instead of in and all doors will be changed. Mr. Cilley is not sure what the intentions are as far as employees are concerned. Peter asked if this process would be the same as a residential in that if the septic was to be expanded in the future would they only need to have a plan on file. Mr. Cilley explained that they would have to go back to the state if there was an expansion because they would need to move the septic from its current location. Mike expressed that it is Map 3 Lot 30, which is partly in the commercial zone and partly in the residential/agricultural zone. This building is fully in the commercial zone for this lot. Minimum setbacks are 100 feet within the commercial district, and both main roads are considered frontage. He believes that the 100 foot setbacks should be applied to this lot.

Mr. Cilley asked if anyone in the commercial district comes into the town for a permit do they have to go by the setbacks of 100 feet from front and 60 from back. The board replied yes. Bob asked if this is clear in the zoning so that there is not a problem with this in the future. The districts are clear in the zoning. This property is also a farm and agricultural regulations apply as well. Mr. Cilley asked the process that he should take and it was explained that first he would go for the building permit and if that was denied due to the setbacks he could then go to the Zoning Board of Adjustment for a variance to the setback requirements. Mr. Cilley asked if he needed to do the site plan review with the planning board. Mike explained that if he is under the agricultural use then he does not have to go to the planning board for a site plan review. Bob did not understand why the setbacks were not adhered to. They believe that they followed the residential district so that the commercial setbacks were for residential. This building is non-conforming in this district. Adding on more to this building now brings the question that if the commercial regulations are followed. Mr. Cilley expressed that they are one of the only lots with two distinct designations. Julie explained that in the Town's zoning it talks about commercial and residential uses. Agricultural uses are allowed in the commercial district, but the district has dimensional requirements that have to be adhered to. She believes that the requirements in this section should be adhered to and the setbacks for the commercial should be applied, even if it is an agricultural use. They may not have to go for a site plan review, but the requirements still need to be addressed. She explained that there could be issues moving forward, this is a non-conforming building. If it was lack of proper enforcement for the zoning at the time, the act to rectify that situation is to do an equitable waiver, which would be to recognize that the Town acted in error on a decision. Going forward any building that happens within the setbacks would be a variance due to the equitable waiver. This is in the property owner's best interest. Peter asked what the ramifications of the expansion would be if that process was done. It would be a variance to the setbacks. Mr. Cilley asked if the town would then be admitting that a mistake was made. Julie replied it would, but the Town should seek legal counsel before admitting that through the equitable waiver process. Mike explained that would also clarify that the commercial setbacks should be followed. Bob asked if the variance can be granted to make them further non-conforming with the existing building. Bob and Julie believe that this is a good action to take because it covers the town and the property owner. It is to legalize a defect on the property. They still would have to get the variance, and is less likely to be approved if the equitable waiver does not exist. When the defect is discovered, he can go to the Zoning Board of the town and request the equitable waiver. The RSA's state the process to follow and why it is important to follow through with it. Mike right now nothing is going on and it is the board's interpretation that the commercial setbacks apply. What turns that on, it would be a determination that an error has been made. You cannot force the property owner to apply for the equitable waiver. A building permit on the site could trigger that determination. Mr. Cilley asked if the board feels that both roads are frontage and they do, as far as the zoning definition. Mr. Cilley thanked the board for their time.

NHDES Alteration of Terrain Permit Process:

Peter spoke to the board on the Alteration of Terrain Permit for the Britton Property. The property was sold and the new owners have gotten an alteration of terrain permit that will affect 3 town's; Kensington; East Kingston; and Exeter. This is just an informational discussion for the board to be informed on the permit. There was a historical marker that marks the where the 3 towns meet. The Board of Selectmen contacted Exeter and asked if they were aware that the marker was there. On the plan it marked that there would be excavation occurring where the marker was supposed to be. It was to actually have 10 feet of earth removed where the marker was. This marker is now not on the property in that area. Peter is not sure if there is any recourse for the Selectmen, in regards to the marker. The Conservation Commission raised

the issue of the aquifer and the marker, and Exeter also raised some concerns, which was forwarded to the state. Julie talked to Sylvia from Exeter and there is a road that has been constructed for the project. Jim stated that there is 8 acres in all that will be disturbed for the project. Most of the project work is occurring in Exeter. There were no specific recommendations made on the aquifer from the Conservation Commission to Peter's knowledge.

Question on Tree Removals:

Donna Carter has a client that wants to remove stumps and is wondering if she has to do the alteration of terrain permit to just remove the stumps. She has never come across this being an issue. Joan stated that within the intent to cut there should be something stated to be able to remove the stumps. Donna stated that there are no wetlands. Julie explained that there are things to consider such as how close they are together and how many there are. Burying the stumps on the lot is no longer allowed. Julie stated that the state would tell you if you need the alteration of terrain permit. Peter expressed that the storm water is also an issue. Julie will enquire for Donna as well to see if she can get an answer, she will email her with information.

Historical Society- letter

The board was presented with a letter of support for the Old Brick School House on Amesbury Road in Kensington. The historical society and the Kensington school board are applying for a grant to have the building repointed.

Bob would like to move that the board sign the letter. Joan seconded; all in favor.

Jim signed the prepared letter on behalf of the Planning Board supporting the Conservation Plate Grant for the Old Brick School House.

OLD BUSINESS:

Crafting of the Storm Water Ordinance-Julie

Julie explained to the board that the draft was sent out to Christian to have him review it and get his comments and thoughts on it since he would be the one to comment on the applications that this would pertain to. The board was given copies of the comments made by Christian and they reviewed them. He had some concerns with the water run-off and volume control. Julie will be talking with Christian about the comments and suggestions this Friday. Julie explained the issues with volume control, and that new developments should not exceed the rates. If you generate storm water the property owner should own it and retain it on the property. She would like to talk with him and not eliminate the sections he has suggested to eliminate. The newer design of storm water, it is not to retain it, but to distribute it. She handed out an EPA fact sheet that explained it well. Peter asked for Julie to send an email instead of a long conversation for budget purposes. Mike explained that the developer should be required to keep run off on their property. Julie explained that the developers are really working with this requirement to reduce the footprint of the developments. Joan read that the applicant should provide documents to be registered at the Registry of Deeds to ensure that the land owner takes care of the Storm waters created. Joan asked if this section should state who will be responsible for paying the recording. Julie will adjust that section to state who will pay for the recording. It was discussed that it would be the owner who would pay the town if the management system needed to be maintained or repaired.

Regulations for Plug-in Areas for Electric Cars- Joan

Joan asked if anyone had any comments. Methuen had a lot of nice definitions included with their regulations on the electric vehicles. The signs seem to be an important issue. These would be informational signs depicting where the charging sites are. Kate asked if this will be allowed only in the commercial district. Peter expressed that you would have them for your personal use not commercial in your home. Bob asked if this is an incidental use. Joan believes that it is incidental around Kensington. Peter believes that charging stations would be a commercial use. Bob thinks that they should make sure that the current regulations will cover this. Bob suggested putting it in the permitted uses in the Commercial Zone. The board discussed adding it under Article III Section 3.1.3;J. No motion at this point, the board will continue the discussion.

OTHER BUSINESS:**Letter from Concerned Resident:**

Jim Webber sent an email to the Planning Board. He is concerned with the number of children in the school system declining. He would like to see the regulations brought back to previous ones that would reduce the road frontage and make the building lots one acre, because this might help some younger families move into town.

Mike made a motion that he would like the issue tabled until next month for further discussion, Kate seconded all in favor.

Marijuana Distribution Center:

Joan asked if this is something that the board should be looking at. Julie has not heard any discussion on this lately. The board tabled this discussion at this time.

Approval of MARCH 17, 2015 meeting minutes.

Joan moves to accept the meeting minutes; Bob seconded; all in favor.

Next Meeting –MAY 19, 2015

Jim made the motion to adjourn at 9:59pm; Seconded by Peter, all in favor.

Respectfully Submitted,

Kathleen T Felch, Planning Board Clerk