

**KENSINGTON, NEW HAMPSHIRE
PLANNING BOARD
TUESDAY
September 20, 2016
7:30 P.M. AT THE
KENSINGTON TOWN HALL
95 Amesbury Road
Meeting Minutes-Approved October 18, 2016**

In Attendance: Glenn Ritter, Bob Solomon, Joan Whitney, Jim Thompson, Michael Schwotzer, Peter Merrill, Selectmen's Rep., Julie LaBranche, RPC Rep.

Jim opened the meeting at 7:31pm.

The chairman decided to move the agenda around and had Janet MacQuarrie of 32 North Road, Kensington, NH M12 L4 and Dawn and Matthew Klinker of 25 North Road, Kensington NH, M12 L2-1 for a lot line adjustment.

Mike made a motion to open the public hearing at 7:42pm, seconded by Joan, all in favor.

Jim asked the applicants to approach the board to present their application.

Janet and Dawn approached the board and explained that it was a lot line adjustment so that the property line is straight. Dawn showed the parcel of conveyance on the plan submitted, which is 0.16 of an acre. Mike asked if there are any structures located near or in the area to be conveyed to the Klinkers, it was explained that there are currently no structures within the area of conveyance. The Thurlows own the adjacent property, and after reviewing the current town tax maps it was determined that the back line of the Thurlow property is before the start of the conveyed section. It was also stated that the property of the Klinkers M12 L2-1 has been surveyed.

The location on the septic and the well were not noted on the map. Joan asked if either applicant were aware of any easements on their properties, wetlands and certification of monumentation will need to be included as well.

Mike made a motion to waive the requirement of noting the well and septic on the plan. Bob added because the change does not impact the area. Julie explained that the waiver criteria needed to be read into the public record, so Mike read the following:

RSA 674:36(n) The basis for any waiver granted by the planning board shall be recorded in the minutes of the board. The planning board may only grant a waiver if the board finds, by majority vote, that:

(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.

Julie clarified that the board is waiving the requirement to have the septic and well located on the plan because the applicant has verbally told and shown the board where the septic and well are, and they are okay with taking the verbal testimony in lieu of having it on the plan and there is no conflict of the lot line adjustment. Joan added it would make it less non-conforming. Peter asked if the board should actually get the locations notated on the plan, he asked the board to reconsider and do a conditional approval instead. Jim called the motion, One for the waiver, all others against. Waiver is denied.

Joan asked if the certification of monumentation was turned in, it has not been. Bob asked if the board should add that the board is making a non-conforming lot less non-conforming. The board agreed that this is being less non-conforming by adding the acreage and straightening the lot line.

Mike made a motion that the lot line adjustment be approved conditionally with the two areas of the septic and the well being put on the plan and that the board receive Monument Certification at the time of signature by the chairman. Peter seconded, all in favor. Lot Line Adjustment is approved. Mike made a motion to have the chairman sign the mylar after review of the inclusion of the conditions, Peter seconded, all in favor.

David Lambert- Subdivision-Continuation.

Jim read the public hearing notification and explained that there were still some drainage issues that needed to be resolved.

Mr. Ring granted the time extension to the board at the last meeting.

Jon Ring presented on behalf of Mr. Lambert. He explained that he met with Julie and Dennis, and then later met with David to come up with the current plan. He increased the size of the pipe to 24 inches under Moulton Ridge Road and turn it north westerly, which will then run through a drainage easement on Lot 5 that will run onto Lot 6. There was a lot of explaining of the drainage easement that would ultimately be the responsibility of the Town to construction because it is solving a problem that has been an issue for many years. He believes that this is an encumbrance on his clients land because of the drainage easements on the lots. He would like the Town to draw up the easements and his client to review them. He is hoping that the approval can be granted tonight. Kate stated that the pipe should be dropped, and Mr. Ring agreed it could be dropped 6 inches the slope would be 5% as it is and with the 6 inch drop it would be at 3%. Dave asked the total distance of pipe to be installed, it seems to be approximately 310 feet.

The drainage going down side of the Peacock stone wall property line will be 20 feet from the property line within the 30 foot easement, it is not centered in the easement and was pushed out to go away from the existing trees. This proposed drainage easement will be pipe underground with 2 man holes to be able to access and clean out. This is going to flow with the natural flow of the land. Kate asked if there was going to be an easement needed on the Peacock/Hansard property, and Mr. Ring does not believe the water will flow there.

Bob asked about the driveway placement, and Mr. Ring indicated that they are placed according to when the site visit was done to verify sight distance.

Mr. Smith is very concerned with the driveways and the sight distance in that area. He feels it is very dangerous.

Ms. Hansard stated that there has been some talk of speed bumps being added to Moulton Ridge Road like the ones on Trundle Bed Lane.

Hans Rutihauser questioned the drainage. Mr. Ring explained that he believes that the water shed will absorb into the well-draining soils. Mr. Ring explained that the berm will be like a dam to carry the water around the corner. How can they be sure that the berm will not wash out? Mr. Ring explained that it will be vegetated.

Dave Buxton asked if it would be notated on the deeds that the homeowners maintain the swale, Mr. Ring stated it would be a good idea. Estimated costs of the drainage were discussed to be from \$4,000-\$24,000.

Peter asked Mr. Ring to clarify what portion he is intending for the Town to take care of. He explained that since it was a problem since 2003. His client has agreed to encumber his property to help to rectify the problem. None of his clients land is contributing to the problem. Dave commented that he is not sure this board has the right to encumber the town to a financial burden. The only way to fund this project would be to put before the voters in March, and what would that do to the time clock on this application. Dave stated that 99% of the time it is the burden of the subdivision, and he does not think that the town should be paying for this whole project. He would like Mr. Ring to get some quotes.

Mr. Ring stated that he is frustrated with the process and might withdraw his suggestions and just build a swale and then the town can do what they need to with the 18 inch pipe under Moulton Ridge Road.

Julie stated that he could just do the open swale. Mr. Ring did not agree to accept the responsibility of the pipe under Moulton Ridge Road. He stated that they agreed to this design with the condition that the Town would pay for the pipe.

Kate expressed that she would prefer the closed drainage system. Mike asked Peter what the board of selectmen's ideas would be on this issue, and does he feel the same as Dave, that this board can't commit the town.

Peter explained that he does not have the authority to speak for the board. He feels that the pipe should have been put in a different way at the time of construction. The town is addressing an issue that should have been addressed at an earlier time. Kate suggested doing a joint session with the Board of Selectmen. Mike explained that if this has to be voted on that Mr. Ring might not want to wait that long or want to incur the cost. The funds from the Road Reconstruction Article were brought up for a possible funding source.

Dennis stated that open swale would have been his first suggestion, but he does now agree with Kate. Due to the amount of water flowing that is the best solution to deal with what is happening there. He would like to think that this could be done one way or another. It is a lot of money but will solve the current problem. Glenn asked if it was rip rapped all the way. Dennis stated that it is hard to maintain the rip rap due to the sandy soils.

Julie stated that if it was an open swale it would be the land owner responsibility to maintain, but if it were the closed system like the one presented it would be the Town's responsibility to maintain. Mr. Ring confirmed, due to the fact that no drainage from the subdivision is going in to the swale. The easements are in favor of the town, because it is allowing the towns drainage to flow through that lot. Julie believes that this should be clarified on the plan, and added as notes that state who is responsible in reference to the drainage easements. Mr. Ring stated that the town attorney should be drafting these easements. Julie stated that if this board is not authorized to commit the town then certain things should not be noted on the plan. Kate explained that there is a bigger problem, if this

doesn't go through then the applicant will come back with just the swales that will not address any of the current issues.

Julie would feel uncomfortable if this board approved the placement of the pipe and they don't have the authority to do so.

Dennis stated that the corner of lot 39 should have an easement as well because a corner of this drainage system is going through that property.

Mr. Ring stated that the plan could be approved with the conditions that the town approve the drainage.

Dave asked how the pipe could be maintained, Mr. Ring explained that it could be accessed from Lot 6 driveway.

Peter asked how often these are cleaned out. Dave responded once in 15 years for one in town currently.

Ms. Hansard asked if the Town knew that they would be responsible for paying for this drainage issue. Peter was not aware until this meeting that was the intent. She continued that it was a previous problem and it should not come as a shock that the Town should pay for it. Peter explained that there should be a joint meeting between the Planning Board and the Board of Selectmen to come to a conclusion. Mike asked the applicant if they would grant the continuance, because the board can't approve this tonight based on the fact that they can't bind the town.

Dave asked for permission to take 3 copies of the plans to get quotes.

Norman DeBoisbriand explained that he is at the meeting as an abutter tonight not as a member of the Board of Selectmen, so could not comment on the board of selectmen's opinions. The board agreed and understood he could not comment as a board member tonight.

Kate asked if the Planning Board could go to the Board of Selectmen's meeting on October 3, 2016. Mr. Ring is not available for that meeting, but was fine with board discussing it then. Julie explained that the meeting has to be a continuation of the public hearing and noticed as such.

Hans Ruthihauser suggested that the timeline of the two projects be considered.

Mike expressed that the changing of the pipe is going to determine if this plan will work.

Dave expressed that the quotes that he gets will be two part ones, so that both projects are priced out separately.

Mr. Ring expressed that they will grant the extension until at least the October 18, 2016 Planning Board Meeting.

Mike made a motion to continue the public hearing on this subdivision to the Board of Selectmen's Meeting on October 3, 2016 for a joint meeting to discuss the implications of the presented plan, Kate seconded, all in favor.

Mike made a motion to close the public hearing at 9:00pm, Joan seconded, all in favor.

Jim read the following to all those present.

Bodwell Family Farm Trust Map 7 Lots 13&15 for a lot line adjustment.

The plans submitted were adjusted, and the board was given new plans to review, based on the variance approval from the zoning board on September 6, 2016.

Derek Durbin explained that he was present with the Bodwells and Jeremy from Southeast Land Trust.

He explained that this is a simple lot line adjustment, but it is different in the fact that the line will be running through an existing pole barn. He gave the history of the Bodwell Farm, and that they were identified by the Southeast Land Trust, LCHIP, and NRCS because of their unique soil qualities. The lot line is to create two independently viable farmable properties. They intend to keep these properties forever, but they needed to be able to independently manage those two properties. The lot lines are proposed to have each lot to have its own water source. There is an area that is exempt on Lot 13 for a homestead to be constructed if needed in the future. In the conditions of the easements there is to be no subdivision of the land, which is why this is being done before the easement is finalized. The Bodwell's have already obtained the variance approval from the Zoning Board for the lot line to go through the pole barn, Plan A. The board asked where the current lot line is located between Lot 13 and Lot 15. It is not on the plan so it was shown to be the middle of West School Road, which was closed subject to gates and bars in 1973.

Julie clarified that the line needed to be shown on the final plan, depicting the new and old lines. Jeremy explained that there will be a small exclusion area around the existing homestead on Lot 15, so that they can upkeep the existing buildings, and Lot 13 will have an exclusion area just big enough for a small home if needed. Within the easement there is no residential development allowed. He explained that the line is where it is to keep the homestead whole because is it considered historical, and the board was notified that if the pole barn was to fall in it would not be reconstructed, as per conditions on the zoning board approval.

Joan read through the checklist for the lot line adjustment.

The septic and wells were not notated on the plan, and the wetlands and surface waters should be approximately located as well. There should be a note on the plan indicating that the existing lot line is through West School Road.

The certification of monumentation needs to be produced as well. Bob asked if the wells and septic are far enough from the lot lines. Mrs. Bodwell showed approximately where they were located on the plan.

Bob made a motion to approve the Lot Line Adjustment with the following conditions:

1. **Certification of Monumentation**
2. **Location of septic and wells on the plan**
3. **Indicate water features on plan**

Mike seconded, all in favor.

Mike made a motion for Julie to review the plan and for Jim to sign the Mylar, Joan seconded, all in favor.

Accessory Dwelling Units-

Julie passed out a sample ordinance for the Accessory Dwelling Unit that would replace the current In Law Apartment Special Exception. The board needs to decide on what the maximum footage should be for the accessory dwelling units.

The board has some concerns about the accessory dwellings such as the size and the septic systems. Peter expressed that the septic's now have to be upgraded, and not just designed.

Mike asked if this was going to come before the Planning Board of the Zoning Board of Adjustment, the way that it is written in the example it would still go before the Zoning Board as a special exception.

Julie told the board that they have 3 choices, they can have the Building Inspector approve them; go before the planning board with a conditional use permit, or before the zoning board for a special exception. The planning board agreed that they would like the applications to come before them. Julie will move it from this section and change it to go before the planning board with a conditional use permit.

The board decided on having the limit at 900 square feet, and to add the definition of accessory dwelling.

The board would also like to have the structures connected and not detached. Donna Carter asked why they would not want them detached, and if there was a lot of others in the town that wanted them detached would they reconsider. The board stated that if they got an abundance of applications for them to be detached then they might reconsider. Donna would like to see detached existing buildings be able to be used.

Julie will have changes done before the next meeting.

OTHER BUSINESS:

Mike made a motion to move the Planning Board meetings to 7:00pm, Glenn seconded, all in favor. Planning Board meetings will now occur at 7pm on the Third Tuesday of the month in the Town Hall.

Approval of meeting minutes for July, August will be moved until October.

Mike made a motion to adjourn at 10:32 pm, Bob seconded, all in favor.