

KENSINGTON PLANNING BOARD
TUESDAY, JANUARY 16, 2018
MEETING MINUTES
APPROVED 2/20/2018

In attendance: Bob Solomon, Chair, Bob Wadleigh, Selectmen's Representative, Jim Thompson, Chris Chetsas, and Julie LaBranche, Rockingham Planning Commission Representative.

Attached is list of residents in attendance.

7:02 p.m. Chairman Solomon opened the meeting.

7:04 p.m. Mr. Wadleigh made a motion to go into non-public session, seconded by Mr. Thompson and passed unanimously. The reason for the non-public session is to review "advice received from the Board's legal counsel either orally or in writing, even if legal counsel is not present" according to RSA 91-A:3, II(I).

7:15 p.m. The Board returned from the non-public meeting. Chairman Solomon announced that, after reviewing Town Counsel's opinion on the status of Round Hill Road, the Board voted not to approve the driveway permit. This decision was based on the minutes from Town Meetings in 1947-48, the fact that the Town has treated the road as abandoned since that time, and that the 2003 and current tax maps show the road as abandoned. According to the Kensington Zoning Ordinance (Section 4.2), "the Kensington Planning Board hereby regulates the construction and alteration of driveways within the limits of the right of way of any existing or proposed town road, lane, street or way". After reviewing all pertinent documents sent to him, the attorney concluded that this is the correct conclusion.

Donna Carter and Peter Kuegel questioned whether the whole of Round Hill Road was closed or just the section from Osgood Rd to the residence of Amelia Rowe. They also asked if all the documents that were presented with the original application were sent to him. Ms. LaBranche stated that she and Kathy Felch had prepared a package for the attorney which included all those documents and any pertinent documents in the Town's files.

Chairman Solomon advised the applicant that if he wishes to pursue the matter further it would have to be as a civil matter between the property owners and/or the courts. Ms. LaBranche stated there is case law which supports that it is not up to the Planning Board or the Town to determine the status of roads. She did agree that anyone who owns property on the discontinued road has the right to pass and repass to access his land but not to improve the land.

Mr. Chetsas made a motion to deny the driveway permit, seconded by Mr. Thompson and it passed unanimously. The denial will be presented in writing. Mr. Kuegel and other residents asked if they could receive a copy of the written denial. It will be made available when completed.

The second agenda item was discussion of the Kuegel gravel pit. Chairman Solomon questioned if it was in the purview of the Planning Board to review the status of the pit. Ms. LaBranche stated that authority is given to the Board according to Kensington's Land Use Regulations Article V, Public Safety and Welfare, Section 5.1 Excavations.

At the December 19 Planning Board meeting resident Paul Bunnell presented the Board with a copy of a Reclamation Plan from 1999. This Plan had not been completed but a settlement agreement was reached

between the Town and Peter Kuegel in April 2016. This Plan was supposed to have been completed by August 15, 2016.

The Town Engineer, Christian Smith of Beals Associates, along with Selectman Bob Wadleigh, inspected the property on November 21, 2017, and reported back to the Board. Mr. Smith's letter did not verify whether or not the pit was in compliance with the April, 2016, settlement agreement. It was suggested that Mr. Smith should either go back to the property for further inspection or revise his letter updating the status of the settlement. Mr. Wadleigh suggested that a revision would probably happen. Ms. LaBranche stated that we would make sure Mr. Smith has reviewed the April, 2016, settlement agreement.

Mr. Wadleigh made a motion to table this item until the next meeting. Motion was seconded by Mr. Thompson and passed unanimously.

Ms. LaBranche will notify the State when the settlement terms are completed. Also, she informed Mr. Kuegel that we will let him know when we have the new response from Mr. Smith.

The third agenda item was a possible regulation violation on North Haverhill Road. This was in reference to an Airbnb advertisement Ms. LaBranche had seen referencing this property. She said that the ad has now been removed.

In July, 2017, the owners of this property came before the Board for a consultation on whether or not they could have an unattached accessory dwelling unit at their location. They were informed that what they wanted did not meet the requirements of the ordinance.

Chairman Solomon and Ms. LaBranche will compose a letter to be sent to the Board of Selectmen informing them of the history of the property, noting that they are not in compliance with the ordinance and that there are no permits or inspection reports in the file.

Chairman Solomon informed the Board that the deliberative session will be held at the school on February 7 at 6:30 p.m.

Mr. Thompson made a motion to approve the minutes from the December 19 meeting. Motion seconded by Mr. Wadleigh and passed unanimously.

Chairman Solomon made note of an error in the January 11 meeting minutes. In the second paragraph, the end of line 5 should read "approval of attached units" not detached. Mr. Thompson made a motion to approve the January 11 minutes with the noted change. Mr. Wadleigh seconded the motion and it passed unanimously.

Peter Keugel thanked the Board for all their time spent on his driveway permit application.

7:45 p.m. Mr. Wadleigh made a motion to adjourn, seconded by Mr. Thompson and passed unanimously.

Respectfully submitted,

Mary Smith