

**KENSINGTON, NEW HAMPSHIRE  
KENSINGTON BOARD OF ADJUSTMENT**

**MEETING MINUTES**

**March 5, 2024**

**Kensington Town Hall**

**7:30PM**

The Chair called the meeting to order at 7:30pm

In Attendance: Micke Schwotzer (Chairperson), Joan Skewes (vice Chairperson), Mark Craig (Member), Janet Bunnell (Member), Aaron Fenton (Alternate), Therese Wallaga (Alternate), and Owen Corcoran (Land Use Administrative Assistant).

**Public Hearings**

**Zoning Board of Adjustment Public Hearing:**

**Owner: Connor Lincoln**

**23 Moulton Ridge Rd**

**Kensington, NH 03833**

**Map 11 Lot 46**

*The applicant is requesting that the Zoning Board of Adjustment grant a special exception for wetland and wetland buffer impact required to access the buildable area of the proposed 3-lot subdivision, as stated in Article VI, Section 6.1.7.A.1 of the Kensington Zoning Ordinance.*

M. Schwotzer noted that the applicant had submitted updated plan sets earlier in the afternoon. The Board discussed the possibility of continuing the application in order to give the town engineer, the Conservation Commission, and town department heads to review the application and provide feedback. J. Skewes stated that many members of the public had made the effort to attend the meeting, and that perhaps the Board should hear the new details of the application plans. The Board agreed to move forward with the hearing.

B. Gier detailed the updates to plan sets and explained that the overall impact on wetland and wetland buffer zones has increased. The intent of the project is to subdivide into 3 buildable lots. Wetland and wetland buffer zones are present on all 3 lots and will all be impacted. Total proposed wetland buffer and wetland impact would be 30,399 square feet and 5,444 square feet, respectively. B. Gier explained that rain gardens would also be constructed.

J. Skewes asked B. Gier to describe rain gardens. B. Gier explained that a rain garden is a depression approximately 18' with material underneath that filters water treats and filters storm water. The rain gardens would be in the upland soil.

A. Fenton noted that the rain gardens were added as part of the new plans, as well as the culvert crossing Hobbes Brook. B. Gier explained that those items were added based on Conservation Commission and town engineer feedback.

M. Schwotzer opened public comments at 7:50pm and asked that questions and comments from the public be directed to the board, and the applicant will be given the opportunity to provide answers to questions once the public comments period had ended.

**John Frye, 24 Moulton Ridge Rd**

Mr. Frye expressed concerns about rain gardens and children's safety and would like more detail on that aspect of the plans.

**Josh Preneta 15 Hoosac Rd**

Mr. Preneta asked about the tree clearing that will be required for the driveways. Was any clearance factored into the plans? He also asked for clarification on the special exceptions language in the zoning ordinance, and that he does not believe this application fits the criteria. M. Schwotzer explained that people need to have relief from zoning, and this is the process. M. Schwotzer reviewed special exceptions questions that the Board needs to answer in order to approve or deny a request for a special exception.

**Ed Powers, 17 Moulton Ridge Rd**

M. Powers expressed concerns with granting exceptions to wetlands, as well as concerns with wetlands impact being expanded on the new plans, along with concerns with aquifer impact.

**Courtney Preneta, 15 Hoosac Rd**

Ms. Preneta stated that she believes granting a special exception would be catastrophic to the area. She also expressed concerns about deforestation, and the need to protect natural resources. Hobbes Brook on the list of natural resources and feeds into Piscataqua.

**Denise Brenier, 29 Moulton Ridge Rd**

Ms. Brenier expressed concerns about degradation to the water system, concerns with setting precedent and further damage to the water system. Ms. Brenier detailed the issues the town has had with significant runoff and flooding and feels that this proposal would exacerbate the problem. She also raised concerns about the significant amount of fill that will be needed to complete the project. M. Brenier described the property as a swamp.

### **Time Irvin, 15 Moulton Ridge Rd**

Mr. Irvin expressed concerns about the number of exceptions being asked for in the proposal. He discussed what he saw as non-conforming lot shapes and was concerned with overall wetland impact. Mr. Irvin stated that he does not want to see a precedent set that is not in keeping with the goals of the town.

### **Nick Mayer 11, Moulton Ridge Rd**

M. Mayer asked about the extent of tree clearing and the impact it will have on the wetland.

### **Norman DeBoisbriand,**

Mr. DeBoisbriand expressed concerns about the possibility of the owner of the property staging his construction business out of the property. He also expressed concerns about runoff and beaver dams, and a potential washout of Moulton Ridge if the beaver dam breaks.

### **Jeremy Smith, 19 Moulton Ridge Rd**

Mr. Smith expressed concerns with the driveway potentially restricting the waterway, as well as concerns with the flooding that is already an issue. He does not believe the culvert is sufficient. Mr. Smith asked who is ultimately responsible for keeping the culverts clear, and also expressed concerns about what he perceived as non-conforming lots.

M. Schwotzer asked if B. Gier would like to answer the questions asked by the public. B. Gier provided the following response to public comments questions:

The rain gardens have a maximum 18' depth and are not intended to hold water all the time. They should drain after a storm. The rain gardens have sections of bark mulch and sand, and underneath is pea gravel. They are designed to be dry within 24 hours.

Tree clearing was taken into account when developing the plans. However, a tree clearing plan has not been provided to the Planning Board yet.

Aquifer protection part of calculations that will be presented to Planning Board, based on the town's storm water regulation.

There is not much the applicant can do about culverts and beaver dams on other properties. B. Gier doesn't anticipate water impact across Moulton Ridge Rd. He confirmed that it is the property owner's responsibility to keep the culverts clear.

M. Schwotzer asked if there are vernal pools on the property. B. Gier stated that he does not believe vernal pools are on site.

Addressing an early concern about lot lines, and the potential for non-conforming lots, M. Schwotzer explained that lot lines are under the purview of the Planning Board.

J. Skewes asked about the profile of the driveway, and that she did not see it detailed in the existing plans. She asked about the slope going down to Hobbes Brook. B. Gier explained that the slope is 10-12%. M. Craig asked about the vertical drop. B. Gier stated that the sharpest drop is approximately 20' within the first 300'.

M. Schwotzer asked for a rough calculation of the driveway slope. B. Gier replied that it's 10-12%. M. Schwotzer read the town's regulations governing driveways and other access to public ways, noting that driveway slopes of greater than 8% require a drainage plan to deal with stormwater runoff.

### **Pam Holland, 108 Stumpfield Rd**

P. Holland stated that she is the chair of the Kensington Conservation Commission (KCC), and that the board submitted a letter to the ZBA after meeting with the applicant at their last meeting. M. Schwotzer asked O. Cocoran to include the letter in the official record (Addendum 1).

A. Fenton asked if the new plans were more harmful to the wetlands and wetland buffer zones. P. Holland stated that she feels that the new plans are more harmful to wetlands. She also expressed concerns with the extent of tree removal, as there is no way for the town to monitor wetlands impact on private property.

M. Schwotzer read special exceptions questions. He highlighted "...essential to the productive use of the land not so zoned." J. Skewes cited Article IV of the Natural Resource Protection Regulations, and noted that via the master plan, the town has voted resoundingly to protect natural resources. She felt that this proposal does not protect natural resources and does not meet the spirit of town's natural resource protection.

B. Gier requested a continuance of the application based on feedback from the Board and the public in order to make the appropriate modifications to the application. A. Fenton opined that new plans will still contain the concerns of the board and the public. M. Schwotzer stated that the Board's options are to decide on the original plans already submitted, or they can continue to the next meeting. J. Bunnell observed that the Board is there to make a decision on the application. The Board further discussed their options in voting on the application.

J. Skewes expressed a concern with the original application stating that only one area of wetland impact was detailed on the plans. The new plans detail wetland impacts on lot 1 as well as lot 3.

P. Holland stated that the KCC would prefer to see a new application and receive feedback from the town engineer. She stated that it would be confusing to have differing and conflicting plans circulating that have already received feedback from town boards and staff.

B. Gier requested that the board approve withdrawing the application without prejudice and resubmit a new application with new plans. The Board discussed multiple options, such as allowing the applicant to amend the original plans with updated information, voting to approve or deny the application, or vote to accept the applicant's request to withdraw.

**MOTION: M. Schwotzer motioned to accept the withdrawal of the application without prejudice. J. Skewes seconded. All in favor.**

### **Reappointment of ZBA Members**

The Board discussed the reappointments of members Mike Schwotzer, Joan Skewes, and Therese Wallaga. M. Schwotzer explained that he will not be seeking reappointment to the ZBA. However, his term expires in April, and is willing to sit with the ZBA should a new application be received. He suggested that Aaron Fenton be made a full member of the Board, and encouraged T. Wallaga to continue with the Board as an alternate. J. Skewes stated that she would like to continue to serve on the ZBA. The Board agreed to revisit the reappointments in April.

### **Meeting Minutes to be approved: 11/7/2023 and 1/2/2024**

J. Bunnell noted a correction to the January minutes to correct the spelling of her last name.

**MOTION: J. Bunnell motioned to approve minutes of November 7, 2024. J. Skewes seconded. 3 in favor, 1 abstention.**

**MOTION: J. Bunnell motioned to approve minutes of January 2, 2024 as amended. M. Craig seconded. 3 in favor, 1 abstention.**

**MOTION: J. Bunnell motioned to adjourn the meeting. J. Skewes seconded. All in favor.**

The meeting was adjourned at 8:59pm.

Respectfully Submitted,

Owen Corcoran  
Land Use Administrative Assistant