

**KENSINGTON BOARD OF ADJUSTMENT  
KENSINGTON, NEW HAMPSHIRE  
PUBLIC HEARING  
March 7, 2017  
KENSINGTON TOWN HALL  
95 AMESBURY ROAD  
AT  
7:30PM  
Meeting Agenda- Approved 9/5/17**

In attendance: Michael Schwotzer, Robert Nolls, Janet Bunnell, Richard Powers

Michael Schwotzer called the meeting to order at 7:30pm.

Mike read the following to all present.

Meeting postponed from February 7, 2017:

The Kensington Zoning Board of Adjustment will hold a Public Hearing, February 7, 2017, at 7:30pm in the Kensington Town Hall to hear the application for:

1. 825 Development LLC., 225 Banfield Road, Portsmouth, NH 03801, owner of Map 12 Lot 45B4, in Kensington and located off of Osgood Road, Kensington, NH, requests a variance from the frontage requirement of 200 feet of frontage on a public street or road in Article III, Section 3.2.2; B2 of the Kensington Zoning Ordinance for the purpose of subdividing and constructing building lots.

Chris Mulligan approached the board and explained that he is representing 825 Development LLC, and introduced the owners Heidi and John Ricci. He continued that in the notice for the February 7, 2017 meeting the application was stated as being 6 lots and he wanted to clear up the records and state that this application is only for 5 lots. The current project is to merge the two lots that are owned and controlled by the applicants, one lot has frontage on Drinkwater and one lot has frontage on Osgood Road. They are planning to combine the two lots and propose 5 building lots. There is currently a pit operation that will be going off line within the year, and converted into residential building lots. There is one lot on Osgood Road that has non-conforming frontage. The combined lots are just over 13 acres, which could contain 6 building lots, but the applicant is only seeking 5 building lots. Richard Powers arrived at 7:35pm.

Attn. Mulligan described the lot configurations to the board while viewing the plan provided to the board. Michael asked the representative where the original lots are within the plan. He believes that the proposal is to eliminate the 75-foot line, and the odd shape of the existing lot.

Attn. Mulligan continued with the 5 criteria. He believes that what they are proposing is:

- Consistent with the use in the area
- Essential characteristics of the neighborhood would not be altered in any way
- The proposal will also eliminate the gravel pit, which would be a benefit to the health safety and welfare of the neighborhood.
- Substantial Justice will be done- board would conduct a balancing test and if the hardship on the owner is reviewed, he believes that substantial justice would be done by granting the variance.
- The burden on the client out ways any benefit to the general public if the variance was not granted.
- The relief that they are seeking is relatively minor.
- Value of surrounding properties will not be diminished due to the project. 5 new building lots with 5 new homes, which would enhance the area, not diminish.
- Strict conformance with the ordinance would create a substantial hardship for the owner.

Attn. Mulligan passed out a tax map for the board to review. Mike stated that since this property is a current gravel pit, when closed it would have to be reclaimed, so the inclusion of costs is not related to converting this property into a housing development.

Mike opened the hearing to the public at 7:52pm.

Jim Thompson of 53 Osgood Road stated that he is opposed to the variance and believes that the 200-foot frontage requirement should be adhered to. He continued that according to the 2011 Master Plan the Kensington people stated that they like the rural character of Kensington, and he does not believe that this project would be in keeping with that.

Skip Heal of 47 Osgood Road stated that he believes that this is the best use for the property, he stated that 5 lots are better than having 6 lots on the property with a road.

It was stated that the relief that the applicant is seeking is 50 feet on one lot, once the lots are combined.

Wendy Osgood and Jen Marr stated that they are not for the variance, and Ms. Osgood would be saddened to see the lots developed. She does understand both sides, but would like to see the rural character kept.

Alex Raslavicus of Wild Pasture Road explained that he is very interested in the outcome of the variance due to the fact that he has a lot of road frontage that could be developed as well. He went through all of the criteria for the variance and explained why the application should be denied.

Wendy Osgood read a letter from Philips Tolvanen stating that he was opposed to the project as well. The letter was made part of the file.

Attn. Mulligan commented that the current use of the property is only allowed by special exception and the use that is proposed is permitted by right within the residential zone. He continued that the use of the property now is a commercial use that will be gone, and they are presenting a use that would be consistent with the zoning of the surrounding area.

June Hampe is concerned and opposed to the variance because she feels it is not consistent to current zoning and with new legislation there is a possibility for a rental on the property. She cautioned the board about squeezing in homes.

Cindy Heal of 47 Osgood Road asked the board to read the letter submitted by the Buxton family who is a direct abutter to the project. Mike read the letter to all present that stated that they were not against the project.

Mr. Raslavicus stated that the variance is only for the frontage relief request, and that the applicant will need to satisfy all the variance requirements, and at the Attorney's admission the applicant had another option so no hardship would exist.

John Ricci explained that he has owned the property for 16 years and he would rather have the variance, but will put in the town maintained road for the homes if needed. He explained that the family has owned the property for years, and that the l-shape of the old Buxton lot was because it was originally used as a cattle path. He believes that this request is in keeping with the rural character of the town.

Mike closed the public session of the meeting at 8:20pm.

Mike asked if the board had any questions for the applicant. Janet asked why Mr. Ricci would have the alternate plan to contain 6 houses and not 4 house lot. Mr. Ricci explained it is economics, putting in the road would cost more so he would have to have more lots for sale to offset the cost.

The board went through criteria:

- Contrary to public Interest
  - Not contrary due to there being single family dwellings and being in keeping with rural character
- Spirit of the Ordinance
  - 2 stated it would be within the ordinance due to economic use of one's property
  - 2 stated would not be within ordinance due to no hardship being demonstrated.
- Substantial Justice
  - Would not do substantial justice due to not being only option available to owner
- Diminished Values
  - In keeping with the neighborhood
- Hardship
  - No unnecessary hardship as the applicant has other options for the lot.

The board discussed that in order for the variance to be granted all criteria must be agreed to.

Due to the fact that not all of the criteria could be met, **Janet made a motion to deny the variance, Bob seconded, all in favor.**

That concluded the public hearing.

Janet, Bob and Michael are up this April 2017. Mike would like to go back on as an alternate and stated that he has appreciate Janet and Bob's attendance. It was stated that this is a working board, with a lot of town experience. Bob and Mike would like to be recommended to the Board of Selectmen for reappointment.

January 3, 2017 minutes were reviewed. **Mike made motion to accept the January 3, 2017, minutes as presented, Bob seconded, all in favor.**

December 6, 2016 minutes were reviewed. **Mike made motion to approve the December 6, 2016 as presented, Janet seconded all in favor.**

Procedure for snow dates was discussed. **Mike made a motion that the board have a procedure for snow dates to on Thursday following the scheduled meeting, Janet seconded, all in favor.**

**Richard motioned to adjourn at 8:44pm, seconded by Janet, all in favor.**

Respectfully submitted,

Kathleen T Felch  
Zoning Board Clerk