

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

**May 6, 2014**

**7:30 PM**

**At Kensington Elementary School Library**

***Approval-July 1, 2014***

**Members in Attendance: Janet Bunnell, Michael Schwotzer, John Andreasse, Chairman**

**Hearing Attendance: Scott Cain, Leigh Wolnik, Bruce Cilley**

**Visitors/Abutters: Zina Talis, Jonathan Young, David Meehan**

Chairman opened the public hearing at 7:30pm

**NEW BUSINESS:**

The Kensington Zoning Board of Adjustment will hold a Public Hearing, May 6, 2014, at 7:30pm in the Kensington Elementary School Library to act upon the application for a Special Exception for

1. Leigh Wolnik, 68 Stumpfield Road, Kensington, NH, Map 7 Lot 18 for a variance from setback requirements as stated in Chapter II, Article 8.3C of the current zoning book. Intent is for Ms. Wolnik to be able to place a garage within the setback requirements.

Scott Cain and Leigh Wolnik approached the board with their information on a proposed addition to the existing garage at 68 Stumpfield Road. It will measure 24x40 and will attach to the existing garage. The reason for the variance is because the underground power will be easily accessible and the pool is in the backyard as well as underground utilities. The applicant is seeking a 16 foot variance from the rock wall boundary line. Mike asked how far the applicant is from the lot line and they are 38 feet. John asked what the shortest point to the boundary line is and that would be the 38 feet to the current structure. Mike explained from looking at the pictures provided, that there is currently a fence along that property line on the applicant's side. Mike asked why the addition would be so deep, and it was explained that it is because they have large vehicles that they would like to store inside the four car garage. John asked if there was any other area to put the garage without digging up the lines. Mr. Cain pointed out where the generator and the underground utilities are located. Mike asked if the stone wall was indeed the lot line, and it was explained that is what is indicated on the deed for both the applicant's lot and the abutter's lots.

John then opened the meeting up to the abutter's comments.

David Meehan of 1 Whipple Way explained that his main concern is that there is a setback by law so that everyone is happy and so that the property lines aren't

encroached. He is against this addition. He would like to know if the addition goes in are there any regulations to keep them from adding a second story to the addition. John stated that the applicant would have to go before the Selectmen for building permit and that is where that portion of the building would be addressed. Mr. Meehan expressed that he is worried about a second or third story being added to the proposed garage. John expressed that they are dealing with what was submitted, which is a garage. When Mr. Meehan first inquired about the addition he said that the building was flush with the back of the home. John explained that how deep the addition goes doesn't matter it is whether or not it is close to the lot line. It could be flush or longer and it has no effect on the variance. John asked Mr. Meehan to indicate what lot he is in relation to the applicant. Mr. Meehan showed the board that he is Map 7 Lot 19-20.

Zina Talis, 3 Whipple Way then addressed the board. She indicated that they are directly behind the fence and are opposed to the addition for a number of reasons. She would like to clarify the size of the current structure and how far it is from the boundary line. She questioned what the actual distance is because what she had from the application and what is being presented are a few different measurements. Her calculations figured that it will leave 8 feet from the property line to the structure. This proposed structure isn't out of necessity, it is a luxury and the setbacks were designed to protect the abutting property owners. She does not believe that the applicant has a hardship.

Ms. Talis explained that there are large trees between the two homes and she is concerned with them falling on the new structure. Mr. Cain explained that the trees will fall on the current structure as well; it would make no difference if it is a new structure or the existing home.

Jonathan Young, 3 Whipple Way, explained that the trees might fall and having the structure closer to the boarder would make a difference. He expressed that there was a time when the charm of the community was the spacing, and one of the reasons why the bought the home years ago. If this is approved it will be starting a slippery slope, and makes him wonder and what the next step will be.

John explained that we do have lot lines and setbacks from them, but the Town of Kensington also voted in that a variance from those setbacks is allowed.

John indicated that he would like clarity on whether the distance is 38 or 36 feet. Mr. Cain explained that it is 38 feet from the center of the stone wall to the closest part of the garage. Mr. Cain showed the board where the lot line is and where everything is located on the property. John asked if Kathy was aware of the property lines and it is indicated in the deeds that the current rock wall is the boundary. John indicted that the garage could not be moved further away from the boundary line because it would necessitate moving the underground lines and the driveway. Mike expressed that the applicant could put a one car width garage and still stay within the setback limits. Mr. Young brought up to the board what he was given from the town and their confusion with the distances for the variance. John indicated even with the discrepancy of the distances the addition will still be within the setbacks for the residential district. John then closed the public hearing.

John asked if the board if they had any questions. John stated that he has questions of the difference of the measurements to the boundary line. Mike explained that it will be within the boundary and will be within the setbacks, and that the distance from the addition to the rock wall gets wider as it goes back. Janet stated that it is a pretty big area that they are asking for. John explained that is why they go through the worksheet, and that a hardship has to be proven. He stated that they have to prove that the 5 categories all apply. Janet is not clear how close the structure will be to the lot line. Mr. Meehan asked if it would clarify things if they went out and looked over the situation. John explained that the board can do field trips. Janet would like to go out to the property to view the boundary.

***Mike made a motion to continue the public hearing on the Wolnik application to June 3<sup>rd</sup> at 7:30 pm at the KES Library, and they have to have verbal permission for the board to go on the property to go out and review the properties. The board will notify the applicant and abutters via email. Janet seconded all in favor.***

Verbal permission from abutters and applicant for the board to view the area was obtained.

2. KLCT Holdings LLC, 244 Amesbury Road, Kensington, NH, Map 3 Lot 26 for a variance from setback requirements as stated in Chapter II, Article 9.1D2 of the current zoning book. The intent is for KLCT Holdings to be able to construct parking spaces, which include a handicap space, within the current commercial setback requirements.

The board began the next hearing at 8:13pm.

Mr. Cilley explained that he was sent to the zoning board from the planning board to determine if the 4 parking spaces are considered to be a structure. The definition of a structure was read to the board from the zoning ordinance. He then showed the board where the spaces are on the plan. The parking spaces are located where the original home was before its demolition. They would also be paved. The board asked why the spaces can't be somewhere else on the site, and it was explained that to access the handicap entrance they would not work anywhere else. The board discussed looked at the plan and reviewed why the spaces had to be where they were presented. Mr. Cilley showed the board the planning board meeting minutes where it stated that it was unclear if the parking spaces would be considered as a structure. Mr. Cilley handed the board a letter from an abutter that stated that he was fine with the parking spaces being within the setbacks for the commercial zone. Mr. Cilley doesn't have any other space on the lot to relocate the parking spaces to because of the 60 foot setbacks. They are required to have parking spaces because of the septic size. Normally what you consider a structure is erected over or in the ground. John the only thing that gives him pauses is the constructed or erected definition in the current definition. He is not sure if this would be considered a structure and he remembers that they were separated at one time. Mike would propose that the spaces be considered structures. John asked if they could do this for the commercial district and not the residential. The board discussed and decided to consider parking spaces structures, in the commercial zone. John

suggested changing the definition to parking lots or parking areas are considered structures in the commercial zone.

John continued the worksheet and the board deemed parking spaces to be a structure in the commercial zone; the worksheet will be in the permanent file.

Mike would like to approve with no conditions.

***Mike made a motion to take jurisdiction regarding parking spaces in a commercial zone to be considered structures. KLCT Holdings property to be able to put 4 parking spaces within commercial zone setbacks. Janet seconded all in favor.***

**OLD BUSINESS:**

Approval of July 3, 2012 Meeting Minutes

***Mike made a motion to accept, Janet seconded all in favor.***

Approval of the May 7, 2013 Meeting Minutes

***Mike made a motion to accept, Janet seconded all in favor.***

**ANY OTHER BOARD BUSINESS:**

John wanted to bring 2 violations to the board's attention.

24 Amesbury Road; Mr. and Mrs. Berry have 2 signs and second sign is large as well as lit.

Ms. Valente on South Road is another one that has lighting on the sign in front of her property.

John asked if they could have them appear before the board again to address the concerns of the violation. Mike explained that the Selectmen need to be aware of the Special Exceptions, and they will need to enforce the Special Exception approvals.

**Next Meeting: Continuance of Wolnik variance application to June 3<sup>rd</sup> meeting and a site visit to be conducted before that meeting.**

***Mike made a motion to adjourn the meeting at 8:53pm. Janet seconded, with all in favor.***

Respectfully Submitted,

Kathleen T Felch, Zoning Board Clerk