



State of New Hampshire
Town of Kensington

95 Amesbury Road
Kensington, NH 03833

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

July 1, 2014

7:30 PM

At Kensington Elementary School Library

APPROVED-August 5, 2014

In Attendance: Janet Bunnell; Michael Schwotzer, Alt.; John Andreasse

Others in attendance: Scott Cain; Leigh Wolnik; Zina Talis; Dave Meehan

Continuation-

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.

Chairman John Andreasse called the meeting to order at 7:30pm.

The board reviewed the application and the site visit notes. John explained to all those present that the board will be starting where the May 6, 2014 meeting recessed.

The board will be acting on a continuation of the application from May 6, 2014.

All board members looked through the minutes of the site visit done on May 22, 2014.

John asked the board their thoughts about the site visit. Mike indicated that the site visit was to take measurements from the rock wall to determine the approximate distance of the variance. John did not see where the trees came into play from his site visit. He accessed the applicant's property not the abutters. Janet expressed that the Talis property can see through the trees. Both abutters wanted to give more testimony. John indicated that the board is able to open the meeting to public comment if there is a motion from the board to do so.

Janet made a motion to open up the public hearing for public comments, Mike seconded all in favor.

John opened the meeting and asked the applicants if they had any comments. They did not have any comments. He then asked the abutters if they had any further comments for the board.

Ms. Talis commented that in the fall and winter she is able to view the applicants' house and pool, before the trees grow in. Once the trees grow in they can see just a little of the fence. John expressed that he did not see where this building would change the current view. Ms. Talis looked through the old meeting minutes of the board and found another variance that was denied by the board. The ZBA July 6, 2010 minutes will be in the applicants file. Mike looked through the minutes and does not feel that that case is relevant to the current application. He explained that the other case was denied because they could move the building to an alternate site and still fit it within the setbacks. Ms. Talis brought up that it was a smaller size than the current application and Mike did not feel that the size was relevant to this application. He did express that he appreciated the research that she had done. Ms. Talis read her explanations to the variance questions and how the application would affect her property. They were detailed and will be included within the applicants file.

Mr. David Meehan of 1 Whipple Way commented that the town has setbacks for a reason, and he is not for granting the variance.

John then closed the public hearing at 7:43pm.

Mike asked if he could ask the applicant a question. He asked what direction the ridgeline would be. Mr. Cain explained that the ridgeline would be so that the bay doors would be facing the applicant's residence. He asked how high the building would be and Mr. Cain said that he is using the roof area for storage, and trusses for the roof construction. He was unsure of the total height of the building. Mike drew out a sketch of where the home is on the property and where the garage would be positioned. It will be retained in the applicants file.

The board continued and went through the variance criteria.

The board read through the handout from the OEP on what the questions stand for and case history.

1. This question was tabled until later in the meeting.

2. The board commented:

Variances are there for leniency of the regulations

Janet believed the dynamics of the land would be changed.

Provisions must promote the health, safety or general welfare of the public.

Request to violate the setback and why, town voted in the ability

Board doesn't agree that it blocks the views; Janet does.

The board deliberated the different aspects of the lots.

Mike explained the variance would not be contrary to the public interest, John agreed, because it does not alter the essential characteristics of the neighborhood or the health, safety, or general welfare of the public. After deliberation Janet agreed.

3. Special Characteristics-

The way the pool is situated digging up the lines would cost more money.

The applicant cannot achieve the same benefit by some other reasonably feasible method that would not impose an undue financial burden.

Discussions on different areas to put the building were discussed. None available.

Any other option was financially unfeasible due to the location of the existing equipment and infrastructure.

4. Injustice

Justice would be done because the loss to the individual is not outgained by the general public
Not granting the variance would not gain the public anything.

5. Would Not be Contrary

Will not be running as a business

Garage is a normal use of residential property

The ordinance is written so that variances can be granted based on the criteria.

Would not be contrary because the structure is an extension of the current use.

Revisiting 1

Based on what was presented John does not see proof of the diminishment of the surrounding properties. This cannot be based solely on the abutters not wanting the variance.

Diminution of the surrounding property values has not been proven to some board members
Junk yards are not allowed but that would be an example of the diminishment of the surrounding properties.

Not been proven that the surrounding properties would be diminished due to the change in the view of the applicant's structure. All agreed.

The board talked about conditions that might be added to the potential approval of the variance.

Height was a question; building inspector/selectmen would regulate that

Proper building permit will be required

Variance to be for 10 feet from the boundary line, specific to variance request.

Mike made a motion that the application by Leigh Wolnik 68 Stumpfield Road for a 24 x 40 attached garage be granted with the conditions that -

The proper building permit be obtained

Variance to be for 10 feet from the boundary line, specific to the variance request.

Seconded by Janet, all in favor. Variance is approved.

Ms. Talis asked what the next step would be to appeal the application. Mike explained that the appeal would first be made to the ZBA and to watch the timeline. She expressed that the Zoning Board should guide the abutters on what information would be requested. She wanted them to say here is the process that is followed and she is arguing that the abutters are losing their rights. Mike and John disagreed with that statement. Janet explained that the board explained the situation well. Mike feels that the board considered the points made by all people present. Janet commented that they tried to be as fair as possible and the board needed to follow the rules. The board is obligated to look at what is in front of them, and this is the process. Ms. Talis would like the appeal application; Kathy will get that out to her tomorrow. Mr. Cain would like to know the process of an appeal. Mike explained that Kathy needs to find out the process and get the information out to the abutters and the applicant. Kathy read sections to the applicant, the abutters had already left.

OLD BUSINESS:

Approval of May 6, 2014 Minutes-

Mike motion to approve the May 6, 2014 meeting minutes as presented, Janet seconded all in favor.

Approval of the May 22, 2014 Site Visit Minutes-

Mike made a motion to approve the May 22, 2014 Site Visit Minutes as presented, Janet seconded all in favor. (June meeting was canceled due to situation in town.)

John asked about the condition of the Valante and Berry signs. Kathy reported that Sergeant Sanders told the Selectmen at the meeting last night that the lights on Valante's sign seemed to be fixed.

Mr. Berry has come in and gotten a sign permit, but has another advertisement sign that will need to have a permit or be removed.

John also wanted to know who is still active on the zoning board and if it could be put it on the website that the board is looking for more members, Mike would like Kathy to write up something for the Community News for interested residents.

Next Meeting: to be determined

Mike made a motion to adjourn at 8:54pm; seconded by Janet all in favor.

Respectfully Submitted,

Kathleen T Felch, Zoning Board Clerk