



State of New Hampshire
Town of Kensington

95 Amesbury Road
Kensington, NH 03833

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

SEPTEMBER 2, 2014

7:30 PM

At Kensington Elementary School Library

In Attendance: John Andreasse, Eliot Fixler, Janet Bunnell, Michael Schwotzer

Public: 13 abutters and guests

John Andreasse, Acting Chairman called the meeting to order at 7:32pm.

PUBLIC HEARING

Pursuant to RSA 674:33, The Kensington Zoning Board of Adjustment will hold a Public Hearing, SEPTEMBER 2, 2014, at 7:30pm in the Kensington Elementary School Library to hear the application for a BED AND BREAKFAST for KEVIN AND JAN FRITTON of 8 North Road; Map 11 Lot 29, in accordance with Chapter II, Article 8.4B. The Fritton's have applied for a commercial business in a residential/agricultural zone.

John asked the applicant to approach the board.

Kevin Fritton explained that they have been trying to sell the home. They instead have decided to start a Bed and Breakfast. John asked the applicant to walk the board through what was submitted. Katherine Clark the previous owner had a plot plan sketched and Mr. Fritton presented it to the board so they could see where the home is situated on the 3.15 acre lot. He attached pictures for the board to see the actual home and some of the rooms inside. He believes that the home was built around 1765. It is a historical home and he would like to tie the history of Kensington into it. John asked if they are expecting to have a sign for the business and they are not at this point. If anything it will be the size of a mailbox. He reminded the applicant that there is a right for a sign if this is approved.

Mike asked the board to reference page 21, which states the definition of commercial.

Commercial- is a business involved in the exchange, buying or selling of commodities and/or services as a merchant for financial profit whether wholesale or retail, exclusive of agricultural products.

His thoughts on commercial is a business for some sort of profit. Is a Bed and Breakfast defined in the zoning ordinance for Kensington. John explained to the applicant that the board is trying to define the Bed and Breakfast and get it into the right category. Mr. Fritton asked if what was just read defined the service that will be provided within the proposed use. Mike asked whether the B&B would be covered under the commercial definition. Mike is still unsure of what the applicant is looking to do, he would like to see a set plan for the B&B. John agreed that the applicant should be more specific. Mr. Fritton explained that to be more definitive he would describe it as having 5 bedrooms currently, and four of those bedrooms would be converted to sellable rooms. He would have to possibly update the septic and add 1.5 bathrooms, because he would not want to share bathrooms within the home. Mike is not seeing a floor plan in regards to the occupancy. Mrs. Fritton asked why they are questioning the floor plan. Mike explained that if this goes through the board would be granting a commercial business approval for a B&B. The applicant will have to go forward to the Planning Board and will have to define parking for them. Mr. Fritton asked if this is a zoning board question or a planning board one. Mr. Fritton asked the board to explain what the zoning board does. John explained that they based on the requirements that they have they approve or disapprove the request for a change or variance of ordinances.

In this case it is a special exception of use for commercial. Mike steered the board to the ordinances where it states that it will cause no adverse impact, such as: offensive noise vibration, excessive traffic, unsanitary condition, noxious odor, smoke, and other similar reasons compatible with the nature of the ordinances.

John would like to walk through the requirements for the commercial, but they need a definition for the B&B. Because just defining it as commercial is such a broad scope. Mike explained that they board can define the use in the special exception. He would like to see a floor plan to see what is going into that building. Elliot pointed the board out to Boarding and Rooming in Section 8.2D which is a narrower scope. The applicant is planning on using continental breakfasts at the moment. Mrs. Fritton explained that they would just

like to rent three bedrooms within their current home. The board has an application that says three to four rooms. Mike believes that it is covered under the boarding and rooming house, which is a commercial venture. Not a multi-family home.

John asked the abutters and residents present if they had any questions.

Kenneth Latimer- 18 North Road- He has heard a lot of different things and is concerned with the use of the barn and the parking spaces, and he is worried about the use changing.

Tony Wallaga- 1 North Road- he is concerned with another use being allowed.

John explained that the special exception is for what is presented and any change in use would have to reapply to the board. This would still be a commercial property; the approval stays with the property.

Bob LaRouche-3 North Road- have you ever had the applicants come back for a change in use.

John explained that when there is a change we have had residents come back before the board for a change in use.

Mike explained that this board is not the enforcing board of the approvals. The Selectmen would handle any violations.

Mr. LaRouche has never seen anyone shut someone down for a violation of use.

Quinn Daily- 2 North Road- he attended the meeting to represent his parents. They have had a commercial business for 26 years. He is concerned about the property values, and asked if this is transferrable to the next owner. John explained that the special exception would go with the property and is transferrable to whoever buys the property with the same operation and scope presented. His concern is that the home has been for sale and is wondering if it is a selling feature.

Mike explained that the exception is put into the property file.

Jan MacQuarrie- 32 North Road- are there any state regulations regarding B&B's. Mr. Fritton explained that there are certain Licenses he will have to acquire. She asked if the state regulations would override the town's? Mike explained that the more restrictive regulations would always override.

Matthew Dowle-3 North Road- lives across the street and it is not the situation that they would have chosen, and they are concerned with the traffic that this business might create.

Tony Wallaga- 1 North Road-As a B&B what if they decide to get a liquor license, the board responded that is a state license.

Bob LaRouche-3 North Road- specifically checked all of the zoning of every home around them, and this will impact the value of the residential property around the applicant. He has been selling residential property for six years. He is worried about the expansion of the B&B and would like to know who will be running the business. He believes that it will be tough for the applicant to obtain all of the permits. John explained that the board can't go that far as to know what the applicant is planning to do in the future as far as resale.

Kenneth Latimer- 18 North Road- he is concerned about the enforcement of the regulations in the town. John explained that the enforcement is done by someone else. He is concerned that the scope of the proposed use is not clear.

Kathleen MacQuarrie- 17 North Road- she is concerned about the commercial zoning. She is worried about the whole road going for special exceptions. She is concerned that this will be passed from owner to owner. She believes that this will impact the whole road in regards to the value of them and being able to pass them on to their children.

Matthew Dowle- 3 North Road- is there anything in the regulations that says that the board can restrict this use to the current applicant so that it cannot be passed onto the next owner. The board responded that by law you cannot restrict that. Mike explained there can be a restriction that if it is not started within a certain time frame then it would expire.

Joni Praded- 24 North Road- does the zoning board look into the probability of the reduction of the neighboring values. John explained that they have to work with whatever is presented to them at the time of the meeting. She does not have any problem with the Airbnb, she can imagine anything that Jan and Kevin Fritton would run would be pretty low key. She is concerned with future owners. With the new building being passed, would there be more B&B? Mike explained that the Pinnacle was passed over 20 years ago, and they just finished the process with the planning board and there has been no change in the scope of the business they are just now constructing the building that was approved years ago. Joni asked if the board thinks that there might be more applications for B&B's with the current construction of the Pinnacle building. Mike explained that this is the first B&B to his knowledge in the town and does not foresee a surge in commercial applications.

John asked if the applicant wants to address any of the comments that were made. Mike asked what they are planning on for the breakfast. Mr. Fritton responded that they would like to do the continental breakfast. Mrs. Fritton would like to see that a survey was done that would prove that the surrounding parcels values would decrease. To address the traffic issues they would have no more than the three vehicles for the rooms they are renting. John hears the concerns, and he is not sure there would be a large impact on traffic. Mr. Fritton asked if it was to be a non-profit organization would that change the concerns. Mike would void the application because it would change the scope. Mrs. Fritton explained that there would be no cars on the street.

John closed the public session at 8:29pm and asked for comments from the board.

Elliot read from page 26 of the current zoning ordinances book 8.3B3a. He is looking for a parking lot to be defined. Mike explained that parking is the purview of the planning board. The applicants will have to get the site plan review from the planning board. Mr. Fritton explained that the engineer will provide the information for the site plan review and it will be more detailed. Elliot is questioning that to grant the special exception tonight, shouldn't the board have some kind of impression on the property. In the past

the board has had a lot of that information, but they did not need to provide that for the zoning board. John is comfortable with what the applicant has provided so far. Mike's question is:

Is the use defined as commercial and does it meet the requirements, and does it meet the board's checklist.

Elliot is pointing out that the acreage and the frontage is something that they make sure of, but why is the parking not part of the reference point as well. Why is the 8.3B3b not being referenced by the zoning board, and the other part of the ordinance is. Mike explained that the driveways and the setbacks are defined because the building is already there. John asked how many cars can fit in the parking lot. Mr. Fritton responded that they can legally fit 4. Mrs. Fritton brought the pictures to the board's attention. The board discussed that the parking looks to accommodate two cars possibly. Mike explained that if this is approved and the site plan is not approved then the application is null and void. John reminded the board that they can't make their decision based on whether or not the applicant can pass the site plan review with what was presented to them. Elliot disagrees, and thinks that the whole section in the zoning ordinance should be used. Elliot explained that they have asked previously about the egress in and out for driveways and he thinks it is hard to grant if he can't see the parking. He is unsure why they can pick one boundary and not the other.

Mike explained that applications have come in to Kathy with less than 2 acres and 250 feet frontage, and they would not be able to meet even the first criteria so the application has not been accepted.

Elliot made a motion to consider all of the Article II 8.4B3 is required for this board to make a decision. Janet is unsure how that whole section can be considered. Elliot amended the motion for the board to look at Article II 8.4B3 a&b for this board to make a decision. Janet seconded. Two for and Two against. Motion killed. It is a non-motion.

Janet asked the board why the tax card indicates that the home is a four bedroom home. The board reviewed the tax card and Kathy pointed out that the note section of the card indicated that the interior of the home has not been inspected. The initials DNVI means Did Not View Interior. Janet pointed out that they are unsure of the number of bedrooms. Elliot explained that if it is a four bedroom home on the card then the board has to work with what the town has for a record; he has not been in the home. Mike explained that the building inspector could view the interior of the home to verify the number of rooms, and the board can make the approval contingent upon the report of the building inspector. The board went through the checklist:

- 1- Exception is allowed by the ordinance specifically if you use the definition of Boarding and Rooming Houses Article 8.2D.
- 2- **Mike made a motion that granting the exception would not cause undo hardship to health or safety because it is only normal living space for the owners and renters. Janet seconded. Three for and one against.**
- 3- Would not and there was not any definitive answers given. Question was asked about a condition to limit the fire exits from an abutter. John explained that the public session is closed.
- 4- It does meet the minimum acreage of 2 acres.
- 5- It does having approximately 482 feet frontage on North Road.

The board went through the discussion of the possible conditions to be added to the application approval. The board was unsure if you could stipulate that it remain owner occupied. Application is accepted as an owner occupied Bed and Breakfast. Mr. Fritton asked how an owner is defined. Mike explained that would be an enforcement issue, but they are trying to state that whoever owns the house should live in the house to run the business. The board questioned who would be contacted if there was a violation if it was not owner occupied. Kenneth Latimier asked about the commercial kitchen and if they would be able to add one later on. John explained that the expansion would be an expansion and would have to come back before the board.

Mike made a motion to approve the application of Kevin and Jan Fritton of 8 North Road, for a special exception under the current Article 8.4B for a small Bed and Breakfast located within the property with the following conditions:

1-Site Plan Review application filed and approved by the Planning Board within six months of the Zoning Board approval, Otherwise the ZBA approval is null and void.

2- approval is for a 3 (three) bedroom if 4 (four) exist and 4(four) bedroom is 5 (five) exist.

3-The application is accepted and approved as an Owner Occupied Bed and Breakfast.

Janet seconded. Three voted in affirmative and one against. Motion passed.

Kathy will forward Mark Sikorski the applicant's number to set up an inspection to verify the number of bedrooms.

OLD BUSINESS:none

Approval of AUGUST 5, 2014 MEETING MINUTES.

Mike motion to approve as presented Janet seconded all in favor one obtaining.

Elliot made a motion to adjourn at 9:30pm, seconded by Janet, all in favor.

Respectfully submitted,

Kathleen T Felch, Zoning Board Clerk