

TOWN OF KINGSTON
ZONING BOARD OF APPEALS

MINUTES

September 21, 2022

Members:

Mr. Paul Dahlen – Chairman
Mr. Doug Dondero – Vice Chairman
Mr. Lane Goldberg
Mr. Robert Mullen
Mr. Kevin Wrightington

Mr. Wrightington motioned to open the Zoning Board of Appeals at 7:01 PM in Room 200, seconded by Mr. Dondero with a **vote of 5-0-0**. Mr. Dahlen, Mr. Dondero, Mr. Goldberg, Mr. Wrightington were in attendance. Mr. Mullen was absent.

Mr. Goldberg read the public hearing for 1 Tremont and 163 Summer Street.

Appointment:

7:00 PM - Applicant, 1 Tremont St. and 163 Summer St., seeks a special permit per §4.2A Nonconforming structure, use or lot number 4(a), waivers from 8.2A intensity schedule and variance per 6.8.D.1r as applicable in order to construct two new 6-unit apartment buildings and modify the existing site plan to facilitate construction. Site plan prepared by Grady Consulting, LLC. 3/15/2022.

Attorney Kraus spoke on behalf of the applicant, Scott Brown-Brownbuilt. Spoke about the memo given to the board regarding the non-conformities. Based on Val Massard's memo and §4.2 allows the ZBA great latitude in the non-conformity issue. This iteration addresses issues that the abutters had with respect to the property. Memo site a couple of cases.

Mr. Grady explained the original proposal and an increase in 12 units. Density was an issue and Mr. Brown changed the plans and reduce density by 3 units, pulls the building towards the street which keeps the setback the same as the existing front setback. By pulling the building towards the street, accommodates parking, turns for vehicles, and loading area. Change made to lighting by lowering lighting for abutters as the lighting does not meet the bylaw as it currently exists, new lighting plan will eliminate all non-conforming lights. Arborvitae to the back as screen for abutters. Change was made to decrease impervious coverage and increase landscaping. No change to drainage system designed to accommodate the 100-year design storm. Working with the water department and planning board. Awaiting certificate from water department. Plan is also to eliminate 2 entrances onto Tremont Street and going from three curb cuts to 1 curb cut. The curb cut is located as far from the traffic light as possible. Will be connecting to town sewer since the back building is connected to town sewer and water. Went on to share some preliminary architectures for the elevation on the Summer Street side.

Mr. Dahlen questioned whether the new tower truck will make the turn and downward grade.

Mr. Grady replied yes.

Mr. Silva, Zoning Enforcement Officer stated that the planning board has to complete their site plan review before this hearing can be concluded. Best that hearing is not closed until site plan review is completed by the planning board. There's merit in discussing the issues.

Mr. Dahlen asked Mr. Silva if there were any concerns.

Mr. Silva stated that he has worked with the applicant on the original and new plan. This plan is better. The legal ad covers both iterations. It is left to the board to decide whether it is substantially different or not.

Mr. Dahlen pooled the board on what they should do next – decide, continue, or readvertise

Mr. Dahlen is questioning whether this should be readvertised but no matter what they still have to go in front of the planning board.

Mr. Goldberg does not think they need to readvertise but would like to hear from the neighbors.

Mr. Wrightington thinks this a better plan as long as neighbors are aware but would like to hear some discussion from the neighbors.

Mr. Dondero agrees with the others and would like to hear from the neighbors. A lot of time has gone into the new plan and would like to keep it as clean as possible.

Mr. Dahlen proceeded to take a vote on whether to readvertise.

Attorney Galvin explained that everyone who has an interest is aware and they know what's going on. They would like to not have to readvertise. This was a very broad application.

Missy Battista, 7 Dillingham Way spoke of her concerns that with the many continuances that a lot of the people in the neighborhood do not know what is going on or that there are new plans. Issues have not been addressed and thinks that this should be readvertised.

Attorney Kraus Clarified detrimental. He stated that Mr. Silva has a compromise that may work for the board.

Mr. Silva suggested that the board have the abutter's notice resent in reference to the new plan. That would meet the requirement for §40A for notification.

Mr. Dahlen stated since they are not readvertising, conditions can be put on your client and attorney that you must distribute the new plans to abutter's.

Mr. Goldberg mentioned an informal condition to resend the public notice to abutters. Then when they come back the ZBA will ask if you did what was said to do.

Attorney Kraus and Rick Grady agreed to submit to the Executive Secretary enough 8.5 x 11 copies of the new plans to be mailed by the Executive Secretary along with the public hearing notice including prelabeled and stamped envelopes for abutter mailing.

Andrea Regan, 3 Burton Lane has lived there for 16 years. She lives behind the property owned by Scott Brown. Andrea expressed her concern that only one light was moved down approximately two feet.

Mr. Dahlen told Andrea Regan that she can also go to the next planning board meeting to express her concerns and chip away at these concerns with them too. Andrea should speak of her concerns to both the planning and zoning boards.

Andrea Regan stated that Scott Brown has not been in contact with the neighbors. She expressed many concerns such as Neighborhood density, lighting, car doors, runoff from gutters on existing building into her yard, car alarms, people congregating, trash and the intersection/light at Tremont St. By adding for example 24 more cars means more noise. Andrea has a signed petition that has been going around the neighborhood. Nobody knew about this meeting because the neighborhood was rallied over the summertime to go to the meeting over the summertime and had a momentum going and the hearing kept getting continued. Andrea will knock on doors again to make sure that neighbors are updated and at continued meetings. This has all been a big issue in the neighborhood and

Mr. Goldberg stated that hearings can be continued because of things that happen that day or a board member cannot be at the hearing.

Mr. Dahlen stated that the next planning board meeting for site plan review set for 1 Tremont and 163 Summer is October 24, 2022, at 7:00 PM.

Rick Grady expressed that this is the chance to correct the issues.

Mr. Dahlen stated that a big problem behind the building that exists, where the neighbors are, there seems to be no corrective action. Suggested that a couple of spaces be removed bigger density - make a bigger buffer in the back where some of the issues are coming from spoken by Andrea Regan.

Mr. Goldberg suggested that the applicant and his attorney sit with the neighbors and address the issues. It was suggested months ago, and nothing has been done. The client stated in the past that there's nothing wrong and he's a great landlord. Mediation and compromise would be appreciated.

Attorney Kraus described in detail the substance. Scott Brown doesn't want to be more confrontational with the neighbors or the ZBA. The revised plan presented was revised based on neighbors' concerns.

Missy Battista thanked the applicant Scott Brown for the change in the curb cut. Missy went on to express her concern of the high density and overflow of parking on Tremont St.

Mr. Dahlen asked that the conversation stay on the intended project.

Mr. Goldberg stated that they meet the parking requirements.

Missy Battista asked who monitors if there is an overflow of parking?

Mr. Dahlen stated that if it is outside of the property then it would be the Kingston Police Department who would monitor the overflow of parking.

Missy Battista questioned if there was an issue with trash would the Board of Health step in?

Mr. Dahlen answered that you can tell planning board your concerns such as trash.

Mr. Silva made appoint that an application with a good decision that writes in all the conditions written is to get to a place where all issues for example buffering is addressed.

Andrea Regan asked where the arborvitaes would be placed.

Rick Grady showed the illustration of where the arborvitaes would be and that there will be irrigation.

Ed Martin, 11 Dillingham Way stated that he was at Andrea Regan's house when Scott Brown was asked to fix the lighting. His response was absolutely not, it's needed to light up the area for safety. Groups of people hanging out. There's a problem here. Believes the cooperation is coming way too late. It's never been there until now.

Mr. Dahlen stated that there is a mechanism of an opportunity to start cleaning up these issues.

Attorney Kraus stated that Scott Brown wants this to be a desired location. There's a commonality of interest for it to be protected, calm, safe, quiet. This is a common interest that we have with the abutters. Attorney Krause wanted the abutters to know that they are listening to everything that the abutters are speaking of.

Mr. Dahlen asked where the school bus is going to stop if there are children living there. These are things that need to be addressed ahead of time.

Mr. Wrightington stated that nobody has taken charge to correct the issues. This is where they need a better property manager and regulations that need to be enforced by the property manager.

Mr. Goldberg stated that it's going to stay the same and you now have a chance to make it better. You're going to have to make some concessions but speaking with the attorney and coming up with a plan that is suitable for both parties.

Attorney Kraus stated that he and his client will endeavor to engage in communication with abutters.

MOTION: Mr. Goldberg motioned that in lieu of a new application being filed by the applicant to work with the Executive Secretary of ZBA to re-notice all abutters within 300' requirement with a copy of the updated plans. Expressed concern over client's lack of concern, of what the neighbors' concerns are. Notification to be sent to abutters within two weeks. Mr. Dondero seconded the motion with a vote of 4-0-0.

VOTE: 4-0-0

MOTION: Mr. Goldberg motioned to **CONTINUE** the hearing to November 2, 2022, 7:00 PM and seconded by Mr. Dondero with a vote of 4-0-0.

VOTE: 4-0-0

MOTION: Mr. Goldberg motioned to **ADJOURN** and seconded by Mr. Dondero with a vote of 4-0-0.

ADJOURNED: 8:05 PM

Respectfully submitted,
Debora Barry
Executive Secretary - Zoning Board of Appeals