

TOWN OF KINGSTON
ZONING BOARD OF APPEALS

MINUTES
June 21, 2023

Members:

Mr. Paul Dahlen – Chairman
Mr. Doug Dondero – Vice Chairman
Mr. Lane Goldberg
Mr. Robert Mullen
Mr. Kevin Wrightington
Mr. Brian Woods – Associate Member
Ms. Marsha Smith Meekins – Associate Member

In attendance in Room 200: Mr. Dahlen, Mr. Dondero, Mr. Wrightington via Zoom, Mr. Mullen Mr. Goldberg, Mr. Woods and Ms. Smith Meekins

Mr. Dahlen opened the ZBA meeting at 7:05 PM, seconded by Mr. Dondero with a **VOTE of 6-0-0**.

Mr. Dahlen stated that as we await the arrival of Mr. Wrightington via Zoom, we will proceed with the informal meeting of Jacob Barnes, 11 Standish Ave. West. Board **VOTED 6-0-0** to proceed.

7:05 PM – Applicant, Jacob Barnes, 11 Standish Ave. West seeks an informal hearing to request a determination whether proposed changes represent a minor or major modification to ZBA Case #1603 from March 2016.

Mr. Dahlen explained that Jacob Barnes was in front of the Board asking if his request for a modification to a previous hearing and decision is considered a major or minor modification.

Jason Barnes, 11 Standish Ave. West explained the original plot plan from 2016 and new plot plan with dimensions. As excavation began digging the hole, there is a ledge that is shown on the plan. As excavation began, the ledge was much bigger than anticipated. Request is for a modification to take the floor plan and mirror it and flip it around. Would also like to extend the garage and master bedroom to accommodate the rock. The ledge will now be in the basement so the back needs to be extended back a little bit to get plumbing and utilities to fit into the basement.

Mr. Dahlen stated that it makes more sense than the original.

Jacob Barnes stated that the garage would be on the right side where the rock is. The slab height in the garage will be over the top of the rock. Extension would be 4'. Lot is non-conforming but still within the rear setback.

Mr. Dahlen pooled the Board.

The Board **VOTED 6-0-0** that this is considered a **MINOR MODIFICATION**.

MOTION for a 10-minute recess made by Mr. Dahlen and seconded by Mr. Goldberg with a **VOTE of 6-0-0** to await board members' arrival via Zoom for the next hearing.

Mr. Dahlen opened the Public Hearing of 1 Tremont St./163 Summer St., seconded by Mr. Dondero. Mr. Wrightington is in attendance via Zoom. **VOTE 5-0-0**

Mr. Goldberg read the Public Hearing notice for 1 Tremont St./ 163 Summer St.

Appointment: 7:00 PM Public Hearing for 1 Tremont St. and 163 Summer St., Applicant 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 Robert Kraus stated that the Applicant, Scott Brown has done everything requested by the ZBA members. Plans were modified as requested and designated guest parking spaces, cameras, noise, etc. Request to close the hearing and get an appropriate vote.

Scott Fanara from Grady Consulting displayed and explained the revised and current plans. 12-unit apartment building exists as well as a 3-unit apartment building, and an office with a garage. The plan is to maintain the existing 12-unit apartment, raze the 3 unit and office/ garage and put up two new 6-unit apartments. The plan has been approved by the Planning Board, Scott Brown, Applicant has obtained his water quality certificate, addressed many of the concerns of the Board and some of the abutters as well. The plan has been reviewed by the Fire Department and approved. Since the last iteration visitor parking has been added and marked and signage as well as a security camera in the rear of the property. Guest parking appears on sheet 1.

Mr. Dahlen asked the applicant and Scott Fanara about snow removal and whether it would be taken off site.

Scott Brown stated that he has been working with the Royal Garden to store snow and will have a lease with them for the dirt lot behind their property that they are not using now.

Mr. Dahlen polled the Board members for comments.

Ms. Meekins Smith stated that it seems that Scott Brown did meet all the requests made by the Board.

Mr. Wrightington went over all the requests made by the Board and that the Applicant has made. Believes they have done a good job.

Mr. Dondero asked if the big trees in the front area are coming down.

Scott Brown stated that he does not believe that those trees are on his property and that they belong to the Town being on a town easement.

Mr. Dondero stated that he would like to see them stay because it softens the whole area.

Scott Brown stated that he's sure they will prune them and keep them up and agreed with Mr. Dondero.

Attorney Kraus stated that is the Town's call on the trees, but they will endeavor to maintain the trees.

Mr. Goldberg stated that he listened to the video on PACTV from the last hearing. This hearing has been open for over a year. What is the variance that the Board is looking at and why is that still on the application?

Scott Fanara thought the question stating that the variance was an extension change to a preexisting, nonconforming structure.

The Board discussed the variance as part of the initial Public Hearing notice.

Scott Brown stated that the variance was put on the application so that everything would be covered or be presented. There is no real variance.

Attorney Kraus stated that this is not a variance. It's an alteration of a preexisting under a special permit. Asked for the variance to be strike from the application. The Applicant is not asking for a variance.

Jason Silva was unable to attend the hearing.

Mr. Dahlen stated that the Applicant could withdraw the variance.

Mr. Goldberg stated that he would be inclined to deny the variance without prejudice.

Mr. Dahlen stated that it gives the Applicant 2 years if denied without prejudice.

Attorney Kraus asked if they could withdraw the variance without taking any action on it?

Mr. Goldberg stated that is more of a Jason Silva question.

Mr. Goldberg made a **MOTION** to take a recess for 2 minutes at 7:46 PM, seconded by Mr. Dondero with a VOTE of 5-0-0

Mr. Dondero **MOTIONED** to return from recess seconded, by Mr. Goldberg with a **VOTE of 5-0-0**.

The Executive Secretary went to the Building Commissioner's office to get the code book for Mr. Goldberg to review.

Attorney Kraus suggested that they confer with Jason Silva, Building Commissioner and Rick Grady who worked on filing this application and hopefully continue this one last time to address the variance.

Mr. Goldberg stated after reviewing the code book that this does apply if you are in the Water Resource Overlay District. You would have to show the standards for a variance. Does not believe that has been presented to the Board.

Attorney Kraus stated that is why he would like to have Jason Silva and Rick Grady present.

Mr. Dahlen asked anyone from the public to speak.

Matt Regan, 3 Burton Lane who is a direct abutter asked the Board about the variance for impervious surface and the special permit requested by the Applicant.

Mr. Dahlen stated that when you have a nonconforming lot, and you are already above the impervious surface, the argument could be made either way that they're already above it and if you're better than the conditions that are there. You may need a variance to correct a problem. We need to talk to the Enforcement Officer.

Mr. Goldberg read the code for the Water Resource Overlay District.

Matt Regan speaks of the amount of concrete on Tremont St. and his concern of adding to this. This is a sea of gray and if we continue doing these things there will be more runoff. Wants a building that is going to be adequate for a small town. Asked that the Board takes that into consideration.

Mr. Dahlen made a **MOTION** to continue 1 Tremont St./163 Summer St. to August 2,2023 at 7:05 PM, seconded by Mr. Dondero with a **VOTE of 5-0-0**.

ADJOURN: 8:15 PM

Respectfully submitted,

Debora Barry
Executive Secretary - Zoning Board of Appeals