



Office of the
Kingston Planning Board
Kingston Town House
26 Evergreen Street
Kingston, Massachusetts 02364

Meeting Minutes of August 8, 2022

Approved 8/21/23

Members:

Tom Bouchard, Chair
Dave Gavigan, Vice Chair
Joanne Cullen, Clerk
Bob Gosselin, Member
Jonathan Barnett, Member
Rich Kenney, Alternate Member

Staff:

Valerie Massard, Town Planner, Casey Pupek, Assistant Town Planner (via Zoom) – both present.

Tom Bouchard called the meeting to order around 7:02 PM

ROLL CALL Tom Bouchard
Bob Gosselin
~~Jon Barnett~~
Joanne Cullen
Rich Kenney, Alternate
David Gavigan (@ 7:15PM)

Jon Barnett was not present, and David Gavigan was not present at the beginning of the meeting. David Gavigan and Casey Pupek joined via Zoom at 7:15 PM, due to technical difficulties – PACTV did not assign hosting to Town Planner at beginning of the meeting, and so the Planner did not have ability to let people into the meeting until about 7:15 PM.

MEETING MINUTES

None available for review.

COMMUNICATIONS

There were no communications.

APPOINTMENTS

Lot Releases: Country Club Way

Mr. Gina Kmito purchased lots from Fred Tonsberg, Jr. which were originally released, but then were rescinded, by the Planning Board due to lack of road completion by Fred Tonsberg Sr. The attorney for proponent did not finish full title search through to the sale, and missed that the lots had been rescinded by not following through to date of sale after finding that they had been released, under subdivision control, as his client intends to construct single family homes under the original subdivision approval for Indian Pond Estates. Fred Tonsberg Jr. bought the 40Bs from Fred Tonsberg, Sr. – who had also gotten this area approved for the Caddie's Place 40B special permit through ZBA; however, this 40B was not built. Although the lots had not been released, building permits were issued for 1-2 of these lots before the problem was caught. Ms. Massard has researched the files from the Registry of Deeds and throughout Town Hall's various departments, to determine whether the overlying Indian Pond Estates 40B permit was complied with for all the units required and establishing what remains, on additional land in the development.

Discussion between Bob Gosselin and Tom Bouchard of whether release of the lots will have any impact on the Tonsbergs (Jr. or Sr.), who sold the lots as laid out under subdivision control without a release – it looks like Mr. Kmito would be the only one penalized if these lots are not released at this time. One lot to Mr. Kmito had been released several weeks ago, all of the lots he purchased are in the same situation, which is about half of what underlies the Caddie's Place land, the remainder are still owned by Fred Tonsberg, Jr. The town has notified Fred Tonsberg, Jr. that no further building permits will be issued until all documentation for the 40Bs he constructed after purchase from Fred Sr. is presented – there are some issues with how the Regulatory Agreements reference affordable units, for example.

Motion: Joanne Cullen moved that the Board release the following lots: 4-84, 4-85, 4-87 through 89, 4-96, and 4-14 on Country Club Way owned by Mr. Kmito.

Second: Bob Gosselin

Vote: All in Favor 3-1-0 Mr. Gavigan opposed

7:01 PM Continued public hearing—Masse Builders, LLC for approval of a Special Permit at 79 Elm St (Map 55 Lot 7) for construction of a 2-family residential dwelling in R20 Zone

Eric Schoumaker, PE of McKenzie Engineering Group has added a sheet to the plans with only the structures, grading and drainage futures to allow for clearer reading; along with providing drainage calculations for the lot; and is showing adjustments to the grading to separate the ANR lot from the subject lot. The infiltration drywell is moved and changed to a depression to the rear of the two-family at a 4:1 slope. He has added erosion control, staging, stabilization and other details; a landscape plan has been added with a buffer between the 2-family and the single family proposed on the ANR lot; architectural rendering for elevations also added, showing that this will appear as an addition – all in response to the Planning Board and Planners' comments. The arborvitae buffer features a species (Giant Arborvitae) not eaten by deer.

Valerie Massard, and Matt Panella Conservation Agent, met with Proponent to request that they not direct stormwater into Elm Street and what appeared to be moving water onto the 2-family from the ANR single

family also proposed. Conservation and Planning asked for the revisions to the plans for the stormwater and planting a buffer along the streetscape and between the dwellings, and the single sheet added - overall this is an improvement over the original plan. Appreciates that the Proponent added the edited-down site plan for legibility.

Bob Gosselin asked about the staking at the site.

Tom Bouchard opened the hearing to the public.

Pine duBois uphill abutter at 93 Elm Street presented a letter signed by her, and also by the other abutters on Elm Street, on whose behalf she is speaking. She is going to speak to several of the points contained in the letter, which she provided to the Board. She asked for clarification whether the ANR lot is part of the Planning Board's purview on this permit, which it is not, Ms. Massard clarified, since this is a special permit for the 2-family only – the ANR lot will need Conservation, Health and Building permits for a proposed single-family, but is not part of this project.

Ms. duBois brought up that Elm Street is a Scenic Road in Kingston, replacement of any trees removed is requested – 7 proposed trees were shown on the previous plan now the revised plans show two, in addition to the shrubs and arborvitae - the trees should be retained as much as possible to buffer noise from Elm Street. Historic and scenic amenities are desired to be protected. Ms. duBois pointed out that there is a stone wall at this location also. Traffic speeds and up to six cars at the 2-family are a concern.

Wetlands abut the proposed development, and there are underground streams where there are uplands, as experienced by Ms. duBois, and this water emerges as a tributary further down the road, and questions the test pit information which differ by 1 foot in documenting depth to groundwater, years ago on another nearby test pit was two feet higher on a separate project, other test pits show groundwater at the elevation of the wetlands. Ms. duBois experiences water in her basement.

Ms. DuBois spoke about the tributaries to the Jones River are important as the Jones River is subject to nutrient loading and this is recognized by the EPA as an Outstanding Resource which has a TMDL order pending on the river to protect it from nutrient loading. Part of an intermittent stream is not showing on the plan and groundwater fluctuations intercept here. Water table fluctuations are significant in this watershed, the septic systems are not far from a storm drain presenting a possible source of contamination to the water bodies feeding to the Jones River. A shared wastewater system is proposed for the 2-family without a management plan. Fill of up to five feet is shown on the plans – cuts and fills should be established, gutters should have a management plan. Ms. duBois notes that the town sewer is planned to extend on Elm Street in the future, and that the sewer is present to protect the water in the bay and rivers.

The Board asked if the plan has been approved by Health and Conservation at the present time, and the response was that it is under review by both Boards at this time.

Michael O'Connell, 67 Elm St, downhill abutter. Appreciates the rendering of the landscape, but still this is over-development of the land; water issues are a standing problem in the neighborhood for property owners.

There being no further speakers from the public, Mr. Bouchard brought discussion back to the Planning Board. Discussion - the Wastewater Treatment Plan could, at some future date, expand sewer up along Elm Street, but there is no plan in place for construction at this time.

Mr. Schoumaker stated he feels the plan complies with the zoning requirements. Board members pointed out that there are significant wetlands with upland that is not contiguous – most of the land is not buildable. Two single family homes may make more sense for the property – one here, one on the ANR lot, or even fewer bedrooms, or consider waiting until there is sewer – this density appears high for the land. The Board commented that the application should continue with the Conservation Commission – this process could impact the outcomes and engineering design, and the Board recommends that the Applicant request continuances until that process has taken place, regardless of continued hearing dates set by this board – it will likely save money on plan revisions as well.

Valerie Massard clarified that if there is a stone wall on the property line, it should be shown on the plans, and if it is a Scenic Road, file for that separately if needed. Owner, Yeshaya Bust, Masse Builders, approached the microphone, and offered that he is open to preserving the open space upland area in the back portion behind the wetlands, if that will support the application.

88 Elm Street resident Angel Matos Reyes, loves Kingston. Can they build by-right no matter what? The Board and staff clarified that “by-right” is a zoning term, wetlands, health and building all have to issue permits if they have purview, for a single family home. Conservation and Health are reviewing both the single family and the 2-family; Planning is reviewing the 2 family as a special permit.

Motion: Joanne Cullen continue the hearing September 12 2023 at 7:01 PM.

Second: Rich Kenney

Vote: 5-0-0

7:02 PM Continued public hearing—Rader Properties, Inc. for approval of Special Permit and site plan for proposed use of adult-use marijuana cultivation, product manufacturing, and sales at 30 Independence way (off Summer St) (Map 12, Lots 3-2)

Motion: Joanne Cullen to waive the reading of the full notice.

Second: Bob Gosselin

Vote: 5-0-0

David Kelly of Kelly Engineering Group spoke on behalf of the entire team of representatives for the proponent, with representatives from MDM Transportation Consultants, Inc. - Bob Visha, Kelly Engineering (Brandon Li, PE), John Fournier (future tenant), Daniel LaCivita (Seller, Owner, next door retail), Jerry Seelen of Roth & Seelen Architects and Jim Rader - Applicant all present live or via Zoom. Since June 27th original site plan presentation, peer review from Pat Brennan, PE at Amory Engineering, with their response and a second review has been received from Mr. Brennan. On July 19 peer review comments were received from VAI and some responses from MDM and second review provided. At this point, most of the outstanding items have been addressed.

The discussion focused on the need for waivers in terms of parking. Retail parking will be oriented to the front of the building (the Summer Street side, where retail will be located), which is oriented/designed to fit into the retail neighborhood on Summer Street), they do not expect needing additional parking, but they have capacity to add it. Town Planner Valerie Massard asked if they would be willing to monitor/make adjustments to the parking if it is found to be needed, and speak to how that could be done – Mr. Kelly felt that monitoring/reporting is agreeable. The Board also commented on the need for safe access closer to the retail area because of the product and the value/cash basis. There is adequate parking in the rear, with a sidewalk, if needed. Highest retail peaks are lower than when the employees are there

during the day; full security inside and outside the building during operations. Mr. Rader spoke to these points as well, that he has another site where this parking situation is sufficient consistent with their experience and industry standards. After discussion of the rotation of day/evening/weekends shifts for 50 employees v. customers anticipated at the site, and the understanding that box trucks rather than larger trucks are the industry standard, with a resulting reduction in 20% of impervious surface to allow for infiltration WAIVERS of Off-Site Parking and Loading Standards were voted upon, with conditions, after finding that reduced impervious surface is a benefit to the Town and, and a sidewalk has been added for pedestrian safety as requested, connecting southerly along Summer Street to help to connect existing sidewalks.

- 2.2.2 Parking space size and number. The Petitioner shall construct the 100 spaces at 9x18 feet (Bylaw requires 10x20) as shown on the plan; and shall landbank the additional 38 spaces required, and as a condition agreed to by the Petitioner, shall monitor the site to demonstrate that the full 138 parking spaces will not be needed by reporting to the Planning Board for a period of 2 years, every 6 months once the business is operational; if the need for the parking is demonstrated through the monitoring, the additional 38 parking spaces shall be constructed with administrative review of the increased parking lot drainage, lighting and relevant characteristics.
- 2.4.1 Loading Bays and Screening, and 2.12.1 Loading Apron length. Given the type of trucks that are used in this industry, and the location of the bays, 12 feet as shown, from the required 25 feet, of screening, with the shorter apron length are suitable for the site and 50' is granted from 60' required.
- 2.6.1 Minimum Aisle Width 15 feet is adequate and has passed muster in the rear of the building for the one-way aisle as shown, and shall be reviewed by the Fire Department prior to the issuance of a Building Permit. The width has already been okayed by the Fire Department on the previous site plans and the current plan is being reviewed.
- 2.11.1 Medians in Driveways. Grass strips rather than paved medians, granted – more suitable for Fire Truck maneuvering, this is an industrial parking lot area in terms of manufacturing.
- 2.11.2 Level area 100 feet from the drive at 1.5% or 3%. 5-7% is provided which suits the existing grade of the road at this point and satisfies the intent of leveling at the approach to the road.

Mr. Seely presented the architectural features, office space, retail, manufacturing, as well as the elevations – building height about 32 feet, floor height about 16 feet – the building is taller in the back given site and road grading, average overall is under 35 feet. Some discussion with the Board about the view from Independence – there is landscaping along the street, with some elevation. The look from Summer Street looks good. Mechanicals are in the back, don't need to be screened. Discussion of the fence along the UPS shared property line – UPS has replaced some of the fence, the Goodrich Lumber parking on the road also interferes with the ability to “clean up” this part of Independence. Check the condition of the fence. There was outreach prior to the filing through workshops, by the Applicant. Sidewalk here will connect Independence to the next, southerly, retail.

Tom Bouchard opened the meeting to anyone from the public on line or in person.

Motion: Joanne Cullen to grant the waivers, with conditions as discussed

Second: David Gavigan

Vote: All in Favor 5-0-0

Motion: Bob Gosselin to close the public hearing

Second: Joanne Cullen

Vote: All in Favor 5-0-0

Motion: Joanne Cullen to grant the special permit with conditions

Second: David Gavigan

Vote: All in Favor 5-0-0

Motion: Joanne Cullen to grant the site plan with conditions

Second: Bob Gosselin

Vote: All in Favor 4-0-0 (Rich Kenney cannot vote on the Site Plan)

Valerie Massard shared a brief overview of how the Public Benefit account funds are being leveraged for town-wide benefit and for some grant funds, conservation and fiber optic – making that money go further. Town has filed for an update to the Subsidized Housing Inventory (SHI) documenting what looks like 63 new units are being added – it's the first time in 15 years the Town has reported units to the state – by keeping track, the Town can know if/when it's in Safe Harbor, possibly, and make requests to the State to be able to ask if we are able to declare Safe Harbor from 40Bs from time to time. Tom Bouchard commented on the benefits of the partnerships with ZBA/Building and Planning, and Valerie Massard commented on how she appreciates the strong partnership with the Planning Board and staff, which is beneficial to everyone. There was brief review of some additional information in the packets – correspondence on 1 Tremont and 163 State Road, some questions on speeds/speed tables at Captain Jones – Valerie Massard has asked Paul Sheerin (Owner/Developer) to look into any additional speed reduction concepts like visual cues such as a small median near Barrows. Also some discussion of the amount of the waiver at Greystone Village for the Public Benefit – this has been settled to match the originally agreed-upon number before prices soared, at \$50,000. Discussion of how this is already helping to secure the \$400-thousand land acquisition grant obtained by Conservation. Discussion of breaking up the façade of the 121 Main Street – met with the Developer to look at improvements to the doors/windows/siding to break up the massing.

There was discussion that it is known there is not a quorum for a second meeting in August. Next regular meeting to be held Monday, September 12, 2022

Motion: Joanne Cullen to adjourn the meeting

Second: Bob Gosselin

Vote: All in Favor 4-0-0 (Rich was not at his seat)

Meeting adjourned 9:33 PM

Materials reviewed for this meeting:

- Agenda August 8th, 2022
- “Site Development Plan, 79 Elm Street, (Assessor’s Map 55, Block 7), Kingston, Massachusetts” prepared by McKenzie Engineering Group dated May 2, 2022 and revised May 28, 2022, and June 25, 2022, and architectural elevations submitted;
- Correspondence to the Planning Board from Kelly Engineering Group, Inc., of Braintree, Massachusetts on behalf of the Petitioner, with a brief narrative describing the requests;
- “Site Development Plans, 200 Summer Street, Kingston MA” prepared by Kelly Engineering Group, Inc.;
- Architectural Floor Plan and Rendering by Roth & Seelen, Inc. of Hingham, Massachusetts ;
- Photometric Plan by Apex Lighting Solutions of Boston, Massachusetts and US Architectural and Sun Valley Lighting, dated April 21, 2022.

- “Fire Truck Exhibit” by Kelly Engineering Group, Inc.;
- “Traffic Memorandum” by MDM Transportation Consultants, Inc. (“MDM”) of Marlborough, Massachusetts (Traffic Engineer) dated May 12, 2022; and
- “Stormwater Management Report”, by Kelly Engineering Group, Inc.
- Peer review comments from Amory Engineering and Vanasse Associates Inc. on behalf of the Planning Board with respect to the 200 Summer Street project
- Public benefit expenditure plan/summary spreadsheet