

TOWN OF KINGSTON
ZONING BOARD OF APPEALS

MINUTES
August 2, 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. Goldberg, Mr. Wrightington and Mr. Mullen
Absent: Mr. Dondero, Mr. Woods and Ms. Marsha Smith Meekins

Mr. Dahlen opened the meeting of the Zoning Board of Appeals at 7:04 PM, seconded by Mr. Mullen with a **VOTE of 4-0-0**.

Mr. Goldberg read the Public Hearing Notice for 23 Spruce St. and motioned to open, seconded by Mr. Wrightington. **VOTE of 4-0-0**.

Appointment:

7:00 PM - Applicant, Charlene Nazaretian of 23 Spruce Street seeks a Special Permit from the Zoning Board of Appeals per section 4.2 #4 subsection a, in order to raze and rebuild a single-family dwelling on a preexisting, nonconforming lot. This parcel lacks adequate frontage on an acceptable way. Map 38, Lot 72. Plans by Joseph E. Webby dated June 12, 2023.

Joe Webby of Webby Engineering displayed plans for the Board and Public. The house was built in approximately 1930. Applicant would like to demolish, rebuild and push the house up closer to Spruce St. The Applicant would like to build a garage and fits within the setback requirements. Has been approved by the Conservation Commission.

Mr. Dahlen asked how many bedrooms.

Joe Webby replied the Applicant is proposing 3 bedrooms.

Charlene Nazaretian, 23 Spruce St. replied that there were two bedrooms when she purchased the home.

Mr. Dahlen asked if the sewer commission signed off on this and requested that they be sure the flow is right. Mention was made of a letter from the Sewer Department. Questioned size of garage and how many cars can fit.

Jason Whipple, Surfside Construction stated that it is a 1 car garage, 2 cars can fit in the driveway, it is a two story home with all of the bedrooms upstairs.

Mr. Dahlen reiterated that there must be one car per bedroom parking on site.

Mr. Mullen asked the Builder and Applicant if the existing heat is electric or oil due to concerns of a truck getting to the area.

Charlene stated that it is propane.

Mr. Wrightington asked if this is at the corner of Atwood St.

**Joe Webby replied that it is on the corner. Spruce St. is considered a private way. They have no problem making any changes and improving the section as requested by the Planning Board. The shared driveway is in poor condition and shall be repaved.

Mr. Silva stated that it is important for emergency vehicles to get in and out.

Mr. Wrightington asked if the power lines with the new construction would be underground?

Jason Whipple replied that they will absolutely be underground.

Mr. Goldberg stated that there are no architectural plans for the house.

Jason Whipple gave a copy of the plan to the Board for review.

Mr. Dahlen stated that the Applicant has good setbacks and asked the square footage of the property.

Charlene replied that it is approximately 13,000 square feet.

Mr. Dahlen asked if they are inside the flood zone.

Joe Webby stated that it is in a flood zone and the house would need to be elevated. Mr. Dahlen requested the height of the actual house, and they cannot go over 35 at the ridge.

Mr. Dahlen stated that the measurement needs to be on the plan so that there is record.

Mr. Mullen stated that the plans do not show the actual height from the pitch down.

Jason Whipple stated that there will be 5' piers. The top pitch to the ground would be 32 ½'.

Mr. Dahlen requested that Jason Whipple insert the height and initial the plan for the file. Parking, sewer and water are adequate.

Mr. Dahlen pooled the Board.

Mr. Goldberg requested the Board look at the Planning Board conditions.

The Board reviewed the conditions written by Val Massard, Planning Board.

Charlene stated that Conservation requested a plan near the marsh. Taxes and fees are fully paid. Hanging wires in the picture provided by Val Massard will be gone after construction as wires will be underground.

Mr. Dahlen asked for an explanation to the Town Planner Staff Report #4a.

Joe Webby explained the elevation mentioned in #4a of the report. The lowest horizontal must be 2' above the flood zone.

Mr. Silva asked that if as a result of this project any adverse conditions result from the project forcing as example storm water beyond the properties lines including the road easement that the petition be reopened and addressed in a way that can mitigate those issues. This has happened in the past with approvals and runoff causing neighbors to be quite upset about it. Mr. Sliva was not suggesting that this example would happen here but it's an appropriate condition to ensure that if something does happen it can be revisited because that road easement is mutual property. Any adverse conditions to adjacent properties including the road easement that the Board has the right to reopen the hearing with the ZBA and address those issues and to give a determination of what to move forward with. Not suggesting that the house be demolished and redone but those issues as a result of this Special Permit can be addressed. Single family dwelling construction and reconstruction does not have limited hours.

Conditions:

1. Weekend hours, Saturday and Sunday shall be 8 AM – 7 PM. Reasonable hours during the week.
2. 2f – (from planning staff report) A separate sheet showing all existing utilities shall be added to the plan set, including the low overhead wire drop line to the existing bungalow, with a management plan for the workers to avoid hazards related to the low wire included in the plans.
3. 4 a - An as-built plan stamped by a Professional Licensed Surveyor confirming the first-floor elevation at 15.1' and the top of foundation at 14' shall be required. -Any adverse conditions to adjacent properties including the road easement that the Board has the right to reopen the hearing with the ZBA and address those issues and to give a determination of what to move forward with.
4. 4b (from planning staff report) The shared driveway shall be reconstructed to provide adequate access for both the subject property and the abutter on the opposite side of unconstructed Spruce Street, including full restoration of any grass or landscaping disturbed.
5. Any adverse conditions to adjacent properties including the road easement, the Board has the right to reopen the hearing with the ZBA to address those issues and to give a determination of what to move forward with.

Mr. Wrightington **MOTIONED** to close the hearing and seconded by Mr. Mullen with a **VOTE: 4-0-0**.

Mr. Wrightington **MOTIONED TO APPROVE THE SPECIAL PERMIT WITH CONDITIONS AS DISCUSSED**, seconded by Mr. Mullen with a **VOTE 4-0-0**.

Mr. Goldberg read the Public Hearing Notice for 1 Tremont St. and 163 Summer St.

MOTION: Mr. Goldberg motioned to continue 1 Tremont St. and 163 Summer St. to September 6, 2023, at 7:00 PM, seconded by Mr. Mullen.

VOTE: 4-0-0

Appointment:

7:05 PM – (CONTINUED TO 9/6/2023 AT 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.

Appointment:

7:10 PM – Informal hearing: Applicant, Caitlin Anderson of “Off the Hook Dog Daycare”, 114R Main Street request the ZBA to review whether including dog grooming and/or offer baths and blowouts as an additional service as well as lifting decision #2 and #3 (see Final Decision) is a minor or major modification.

Mr. Dahlen asked Caitlin Anderson to step to the podium to inform the board of her requests.

Caitlin Anderson is asking for permission to offer grooming/bathing, and blowouts for dogs. Stated that other businesses are short-handed and there is room here for business. Also asking for relief of 2 conditions:

1. 3 dogs outside at one time would request that be removed because it is easier to bring all the dogs out in one group. It's a healthier habit for dogs to go to the bathroom all at once rather than seeing 3 dogs go out. Usually there are 10 dogs in one group, it would make it easier.
2. Requesting to do away with the curbside drop off condition. Already have staggered drops offs as it would make it easier. Owners like to go inside to see everything. A store front for purchases is also available. Defeats the purpose of a store front with the curbside. Owner/Applicant is currently retrieving the dogs to bring them into the business upon arrival and bring them back out to the car when leaving.

Mr. Goldberg stated that he did not believe that pick-up was subject to curbside. The final decision was reviewed.

Mr. Dahlen stated that the problem is that his is still so new. Don't mind the curbside request but the dogs going outside in a group is what abutters fought the most about.

Mr. Goldberg stated that he believed that even though he does not have a problem with it thought that the neighbors should weigh in on it.

Caitlin Anderson stated that she has been open for 6 months. Constraint was 9 months for capacity to be discussed again.

Mr. Dahlen stated that Caitlin Anderson would have to modify the special permit that was issued to her for the grooming as it is a change in use and asked Jason Silva for his advice.

Mr. Silva stated that it would be a modification due to additional service which would increase traffic in the area. The additional use has the largest impact on traffic and operation. There have not been any problems or complaints. It could change traffic patterns.

Mr. Mullen suggested reopening the hearing and inviting the abutters to attend.

Mr. Mullen pooled the board and asked if they could modify their curbside so that it is more efficient and draws people into their business. The other request is considered a major modification that needs to be put out to the public.

Caitlin Anderson asked the board when she goes back for a major modification and these same people come back and complain what does she do.

Mr. Dahlen stated that Caitlin Anderson made it through the process. They have not complained during the time period.

Mr. Goldberg asked Caitlin Anderson how many dogs are there currently.

Caitlin Anderson replied that she currently the highest number of dogs is 26 and capacity is 35 dogs.

Mr. Goldberg explained that if Caitlin has 35 dogs present for daycare, she cannot take more for grooming. He believes it would be a major modification due to traffic.

The board continued to discuss the topics, traffic and whether major or minor modification.

The Board agreed on the following:

1. Relief of dog grooming with dogs already on site in the facility is considered a **MINOR MODIFICATION**. If Caitlin Anderson wants grooming for additional animals, she will need to go back to the ZBA. The limit continues to be 35 and cannot be broken.
2. In final decision #3 it is considered a **MINOR MODIFICATION** and to strike "and departure" from the final decision.

Mr. Dahlen told Caitlin that other requests i.e., 3 dogs out and an increase in capacity for grooming are major and to go back to the ZBA at the 9 months originally stated. Can deal with it in November.

Mr. Silva explained to Caitlin Anderson that the amendment to her special permit will be signed and registered at the Town Clerk's office. The additional items will have to be readvertised and sent to abutters.

MOTION: By Mr. Dahlen to approve the minutes of 6/21/2023, seconded by Mr. Mullen

VOTE: 4-0-0

MOTION: To close the ZBA meeting by Mr. Goldberg and seconded by Mr. Wrightington.

VOTE of 4-0-0.

ADJOURN: 8:14 PM

Respectfully submitted,

Debora Barry

Executive Secretary - Zoning Board of Appeals