

TOWN OF KINGSTON
ZONING BOARD OF APPEALS

MINUTES
May 17, 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. Mullen, and Ms. Smith Meekins
Absent: Mr. Goldberg and Mr. Woods

Mr. Dahlen opened the ZBA meetings at 7:05 PM, seconded by Mr. Wrightington with a **VOTE of 4-0-0**.

Mr. Dondero read the public hearing notice for 1 Tremont St./163 Summer St. and **MOTIONED** to open the public hearing, seconded by Mr. Wrightington with a **VOTE of 4-0-0**.

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 spoke on behalf of Scott Brown. Attorney Kraus stated that they received the requested water quality certificate from the Water Department. There was a request by the Board for Scott Brown to meet with the residents. As of February 2023, Scott Brown wrote a letter to all of the abutters and asked them to meet per the request of the Board. A meeting was set up at the Royal Garden. Two people attended. The abutters preferred not to talk about it because they preferred to address their comments to the Board. A revision of plans was displayed for the Board, Abutters, and those on Zoom. Sewer capacity is available. Letter is on record. Believes that they have done everything possible to address concerns, improve property, and minimize impact. Again, Scott Brown tried in good faith to talk to the Abutters.

Rick Grady, Grady Consulting spoke of the changes made from the original plan. The plan was revised to split the building into two, six-unit buildings, all one bedroom. Arrangement allows to keep the existing driveway and existing sewer connection to the rear building. It simplifies utility connections for the rear building and two new proposed buildings. The existing curb cut will be retained on Tremont St. closest to the traffic light which will be a one-way entrance only, no exit. The exit will be through the northerly exit closest to the Royal Garden. Any vehicles leaving the site will avoid the awkward turn at the light. Water Department did a water flow test, Water line was sized by fire protection.

Mr. Dahlen asked if the back building has water sprinklers and requested a water certificate letter from the Water Department and Fire Department. Requested a designated parking area and questioned where snow will be plowed to.

Rick Grady replied no fire protection on the back building existing or proposed. Not required for the existing building but is required for the two new proposed buildings. 4" fire service is sufficient. Satisfied the Water Department with all the water connection details. Full water service will be replaced/updated to the back building. Sewer connections are 13 ½' down to existing sewer manhole. With this number of units, 12 existing and 12 proposed, this will require removing the existing 3 units in the white building that are currently there and removing the office building. These 4 units will be removed and proposing to construct 12, 1-bedroom units in the two buildings. Total parking required for this is 36 spaces, 37 spaces are proposed. Maintaining wider pavement near the dumpster for drop off and pick up. Rick Grady continues to point out the wider pavement. 27' at the nearest point. Wider than typically required. Drainage system collection points for the drainage remain very consistent. Infiltration system will fully infiltrate the 100-year design storm. Proposing an 8' privacy fence along the rear property line. In addition, there will be large green arborvitaes on the inside of the fence. There will also be a crushed stone for any minor runoff. Buffer has been increased to the back property. Lighting calculations have been added to the plan. Agreed to truck snow. No signage proposed. 8' privacy fence on property.

Attorney Kraus stated that tenants use public transportation and believe there will be adequate parking.

Andrea Regan, 3 Burton Lane stated that Scott Brown gave 48 hours' notice to meet and said he would put up arborvitaes and fence. Andrea expressed her concern over density, snow being pushed up against the fence, parking, and congregation of residents behind her property which becomes a privacy issue. She also expressed her concern regarding the lighting which shines bright into her windows at night.

Jason Silva, Building Inspector/Zoning Enforcement asked the Board to consider referencing the inclusionary bylaw that 10 % affordable housing units will apply and should be a condition and submitted to the Town Planner. It is not a 40B.

Rick Grady request combining two lots.

Attorney Kraus stated that there will be 8 net units on the property. There can be conditions.

Mr. Dahlen asked about the ladder truck and hydrants.

Rick Grady replied that there would be no additional hydrants added.

Mr. Dahlen Spoke again of parking and snow removal being a problem.

Attorney Kraus stated that tenants could go to housing court if snow is not removed.

Ms. Marsha Smith Meekins asked if snow removal could be a condition.

Attorney Kraus replied that Jason Silva, Building Inspector can enforce. It would not be in Scott Brown's best interest to let snow accumulate.

Mr. Wrightington asked if they had a loader or contractor to move the snow.

Mr. Brown Yes to both.

Mr. Mullen had concerns regarding affordable housing. Conditions of people living there will be the same.

Mr. Dahlen asked the Applicant if he could stop people from congregating by putting signage in the back.

Andrea Regan, 3 Burton Lane has called the police on Friday, Saturday and Sunday when congregating.

Mr. Dahlen assured the abutter, the Regan's, that he is trying to help solve their concerns and problems.

Mr. Dondero stated that he appreciates the effort and everything but has a nagging feeling about density. It's a busy part of town but likes what Scott Brown has done.

Ms. Meekins Smith questioned how many units will be affordable housing.

Attorney Kraus replied that it is one bedroom it is affordable in relative terms.

Mr. Dahlen requested a fire certificate and there are only four voting members.

Attorney Kraus requested a two-minute break to speak with the applicant Scott Brown.

Mr. Dahlen agreed to a recess.

Attorney Kraus went over the conditions stated by Mr. Dahlen and the board. They want all five members in attendance. Mentioned the conditions such as visitor parking, snow removal, fire certification, enforcement by the town, eight-foot fence, lighting to be down lit, have the water quality certificate, contact police department.

MOTION: Mr. Dondero motioned to continue the hearing of 1 Tremont Street and 163 Summer Street to June 7, 2023, at 7:00 PM and seconded by Mr. Mullen.

VOTE: 4-0-0

Mr. Dondero read the public hearing notice for 121 Main Street and **MOTIONED** to open the hearing and seconded by Mr. Mullen.

VOTE: 5-0-0

Appointment: 7:05 PM Applicant, Spencer Kingston Realty LLC, Dunkin Donuts located at 121 Main St. must seek a variance from the Zoning Board of Appeals per section 10.4.B powers subsection #3 of the Kingston zoning bylaw (ZBL) in order to install signage in excess of the allowances for size and numbers of signs as described in ZBL section 9.4.D.

Sean Donovan spoke of the variance sought for the signage.

Mr. Dahlen asked what the hardship was.

Jason Silva, Building Inspector and Enforcement Officer stated he does his best to be impartial in most situations. In the case of a variance request for signage. The standard is to be put in front of the board. The rigidity of the bylaw in and of itself that it does not offer any other mechanism. So, in Jason's opinion, there are legal grounds to construe and meet the requirements of the request. You could argue that not having these signs for commercial use is a hinderance on the property in and of itself. It is not going to harm anyone. Dunkin' Donuts removed the branding from signs that state Dunkin' Donuts giving them eight-foot relief. Spoke of where the signs will face.

Mr. Dahlen asked if the menu counts as a sign.

Mr. Silva stated there is a lot of case law that goes around that. He also speaks of the Zoning Bylaw. In the 3A District you can have one sign up to 16 sqft. In this instance there are two at 8 sqft.

Sean stated that the brand has requirements for the franchises.

Mr. Dahlen pooled the board.

MOTION: Mr. Dondero motioned to close the hearing for Dunkin' Donuts, 121 Main Street, seconded by Mr. Wrightington.

VOTE: 5-0-0

MOTION: Mr. Dondero motioned to APPROVE the variance for Dunkin' Donuts, 121 Main Street to allow two signs no more than combined 16 sqft, seconded by Mr. Wrightington.

VOTE: 5-0-0

Appointment: 7:10 PM Informal Meeting Request: Informal request by Maggie Ann Ewing, of 41 East Avenue, requesting the Board's opinion on ZBA case #20-01

Attorney Guard representing the applicant Maggie Ewing spoke of plans and the clerical error in minutes in 2020. Mr. Mullen, Mr. Wrightington and Mr. Dahlen were at that meeting and agreed and voted in favor of that application in 2020. A request is being made to change the clerical error since there is inconsistency in the final decision. The application and the public notices were to raze an existing structure and construct a three-bedroom single family residential dwelling. The language said to add a two-bedroom addition to a single family non-conforming structure. That was caught by Jason when a building permit was applied for. A draft decision was prepared and gone over with Town Counsel, Attorney Talerma. Requesting to vote and grant the clerical change to the existing decision. That vote would be attached to the existing decision and the certificate of no appeal from the Town Clerk which would be recorded at the Registry of Deeds.

Mr. Dahlen stated that he believes there was a discrepancy, and this got held up because there was a parking issue.

Mr. Wrightington questioned the parking issue.

Attorney Guard stated that they are present to fix the decision and record it. The house is demolished and would like to move on and build the house.

Paul Basler, Highway Department Superintendent, and resident of Rocky Nook spoke of the area and width of the road. Paul proceeded to pass along a picture of the parking issue. Parking spaces need to be included in the plan and all parking needs to be outside the layout. Public safety is a concern.

Mr. Dahlen questioned whether there will be enough room for three average size vehicles having the residence change to three bedrooms as requested.

Joshua Bowes, Merrill Engineers, and Land Surveyors spoke of the survey, design, and parking.

Attorney Guard stated that the board was kind enough to grant an extension to deal with this clerical error. Spoke of the two-year abandonment and needs to act with the time constraint.

Mr. Silva stated that there are two distinct different statutes. One is two years for a preexisting use or structure on a lot. If the use or structure is abandoned, you then have two years to ask to reup that use or ask for any special permits. If a period of two years goes by, that use is expired. Recording did not take place in this period.

Mr. Dahlen pooled the board and Mr. Wrightington was against. Mr. Dahlen requested that a draft be made up stating super majority and requested that Attorney Guard speak with Attorney Talerman to prepare the change and make sure everything is completed correctly and wants an email so that everyone can read it. Construction can only be done on certain days and times. All off street parking. Meet again in June.

MOTION: Mr. Dondero motioned to APPROVE the minutes of May 3, 2023, and seconded by Mr. Mullen.

VOTE: 5-0-0

MOTION: to **APPROVE** the minutes of April 5, 2023, and seconded by Mr. Mullen.

VOTE: 5-0-0

MOTION: To close the hearing by Mr. Dondero and seconded by Mr. Wrightington.

VOTE: 5-0-0

ADJOURN: 9:10 PM

Respectfully submitted,

Debora Barry
Executive Secretary - Zoning Board of Appeals