

TOWN OF KINGSTON
ZONING BOARD OF APPEALS

MINUTES
December 7, 2022

Members:

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

In attendance in Room 200: Paul Dahlen, Doug Dondero, Lane Goldberg, Kevin Wrightington and Bob Mullen.

Mr. Dahlen motioned to open the meeting of the Zoning Board of Appeals at 7:08 PM, Mr. Dondero seconded the motion with a **VOTE of 5-0-0**.

Mr. Goldberg read the public hearing for 1 Tremont St. and 163 Summer St. and motioned to open the public hearing, seconded by Mr. Wrightington with a **VOTE of 5-0-0**.

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 represented Scott Brown for 1 Tremont St. and 163 Summer St. spoke of approval given by the Planning Board with conditions that the applicant will comply with.

Rick Grady, Grady Consulting spoke of substantial revision to the plan, the site approval from the Planning, arborvitae screening for the abutter, remove paved area from rear of building and add crushed stone for drainage to reduce run off to abutting property. Recapped things that have evolved and changed the plans. Spoke of lighting plan, landscaping, closing two existing entrances and services by a single 24' wide 2-way access along the Royal Garden. Enough parking with 1.5 spaces per unit. 24 unit's total.

Mr. Dahlen asked if this would be a condo association.

Mr. Grady replied that this would be single apartment occupancy.

Mr. Dahlen asked about a second egress in case there is an accident access is needed.

Mr. Grady replied that it would be the same as a subdivision right up the street that has a single egress.

Mr. Dahlen replied that ZBA tries not to allow them anymore. Is there curbing, usable open space?

Rick Grady replied that there is a total open space of 16.3%.

Mr. Dahlen asked what is going on with the water department and stated that he read the water department email from Stacey Smith that the water department is waiting for water plans. Plans are needed before any decisions are made regarding water and no certificate will be issued until review.

Mr. Grady stated that the applicant will comply with the needs of the water department.

Attorney Kraus and Rick Grady continued to speak on behalf of the applicant of all of the issues and needs.

Mr. Goldberg, if they're in the water resource overlay district that changes the board's analysis.

Jason Silva, Building-Zoning Commissioner, this application has been morphed considerably from its origination to where it is now. The legal advertisement was put together to cover a broad element of what their requests were. *We included the variance* request which addresses the impervious surfaces area. Within a special permit request there are the opportunities to change or modify some of the situations that exist on a parcel but usually there is not the permission to change a prescriptive requirement. There could be an appeal so there was an effort to be very thorough. If the board feels this is not relevant you have the discretion. Refers to 6.8E, 6.8G and 6.8F It doesn't remove the liabilities of the prohibited issue.

Attorney Kraus refers to the exemptions in the bylaws that Jason Silva referred to.

Mr. Dahlen stated that there is still a lot of impervious surface.

Mr. Goldberg stated that he does not see how this is not a variance.

Mr. Grady referred to plans, snow removal, snow storage and run off.

Mr. Wrightington questioned the enforcement of snow removal.

Mr. Grady replied that it will be part of the property maintenance by the applicant.

Attorney Kraus stated that this is part of the landlord/tenant relationship.

Mr. Dahlen questioned the snow removal if there is a blizzard.

Rick Grady stated that if the snow takes up space, we will remove it per the Planning Board condition.

Mr. Wrightington is concerned about impervious surface and run off.

Mr. Mullen questioned if people are sick or not at home and cars cannot be moved for snow removal.

Mr. Dondero agreed that they were all very good points.

Mr. Goldberg stated that he did not have anything new other than what he had expressed.

Mr. Dahlen asked if anyone from the public would like to speak.

Edward Foley, 42 Tremont St. has lived in the area to 20+ years. Referenced the area and congestion. Doesn't feel we should be adding more congestion to the area and neighborhood. Against more expansion and development in town.

Missy Battista, 7 Dillingham Way spoke of her experience with the landlord/tenant relationship, issues such as parking not addressed and is a nightmare, density issue is extreme, snow removal is a huge concern and the safety issue. Currently there is a person living in a car at the parking lot of the Royal Garden. To add to this would be a nightmare. Against the development.

Mr. Dahlen asked if there is site control and if the business has control of one building and LLC another.

Rick Grady replied that there should be a condition of approval under a single deed. He is in a condition of more nonconformance without approval.

Attorney Kraus stated that site control could be a condition.

Missy Battista asked if the petitioner should get the variance is there a possibility of losing the protective status of what he was currently variance to begin with? Is the variance giving him the ability to do what he wants if the two lots are combined.

Mr. Dahlen replied no and explained what he is trying to do.

Andrea Regan. 3 Burton Lane quoted the Planning Board after watching the Planning Board hearing and there was reference to hesitation made and stating that this is a ZBA issue. Spoke of concerns about snow removal, landlord or attorney not reaching out, issues with old building with no communication from owner, density and at capacity.

Attorney Kraus requested that before a vote is taken or before the board closes the hearing allow us to consider and address the parking and snow removal.

Mr. Dahlen referenced 33 parking spots.

Ed Foley mentioned that the applicant has had 8 months with several changes. Why would we give them more time.

Rick Grady replied that the changes have been good, and we have been responsive.

Mr. Goldberg questioned why the applicant has not met with the abutters?

Mr. Grady mentioned that the applicant tried to exchange phone numbers with the applicant unsuccessfully.

Andrea Regan responded that she never received any communication from the applicant or his attorney. He never attempted to reach out.

Attorney Kraus shared his email for the abutters to reach out.

Mr. Dahlen stated that it is part of the process.

Mr. Goldberg asked the abutters to speak with the applicant regarding their concerns.

Sloan, 4 Dillingham Way reiterated that she has not had any communication with the applicant as an abutter. The amount of people coming in and out of the intersection, safety, and congestion.

Rick Grady went over everything he and the applicant will address.

Mr. Dahlen pooled the board.

The board continued to talk about their concerns amongst each other regarding the plans and concerns brought up by the abutters as well.

Lisa Doty, 10 Dillingham Way spoke of the area and was concerned about the congestion and at full capacity at the intersection.

Ed Martin, 11 Dillingham Way spoke of no sidewalks and does not see that happening also concerned about the amount of building in Kingston.

Missy Battista, 7 Dillingham Way referred to the bylaw and reiterated concerns.

Mr. Dahlen asked Attorney Kraus when he would like to continue to.

Attorney Kraus left the continuance date up to Rick Grady and the applicant.

Rick Grady agreed to continue to January 18, 2023, at 7:00 PM.

Mr. Dahlen again addressed the issues that need to be looked at.

MOTION: Mr. Dondero motioned to continue the hearing of 1 Tremont St. and 163 Summer St. to January 18, 2023, at 7:00 PM and seconded by Mr. Goldberg.

VOTE: 5-0-0

Appointment:

7:05 PM – Review application for ZBA alternate member to advise and provide comment to the Board of Selectman

ZBA welcomed the alternated member, Brian Woods to the ZBA.

MOTION: Mr. Dondero motioned to **continue** the hearing of 1 Tremont St. and 163 Summer St. to January 18, 2023, at 7:00 PM and seconded by Mr. Wrightington.

VOTE: 5-0-0

ADJOURN: Mr. Dondero motioned to adjourn at 8:08 PM and seconded by Mr. Wrightington.

VOTE: 5-0-0

Respectfully submitted,

Debora Barry
Executive Secretary Zoning Board of Appeals