

TOWN OF KINGSTON
ZONING BOARD OF APPEALS

MINUTES
June 5, 2024

Members:

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

In attendance in Room 200: Mr. Dahlen, Mr. Dondero, Mr. Goldberg, Mr. Wrightington, and Mr. Mullen

Zoom: Ms. Marsha Meekins Smith

Mr. Dahlen opened the ZBA meeting at 7:04 PM

Mr. Goldberg read the Public Hearing notice for 22 Cushman Dr. and motioned to CONTINUE to July 17, 2024, at 7:20 PM, seconded by Mr. Wrightington.

VOTE: 5-0-0

Appointment:

7:00 PM - (CONTINUED TO JULY 17 AT 7:20 PM) Applicant, Cushman Farms, LLC., 33 Cushman Drive, Kingston, MA 02364. To request a Comprehensive Permit under Massachusetts General Laws Chapter 40B, to allow construction of three apartment buildings proposed to build 100 sixty-two (162 units of rental housing (the “project”) on approximately 11 acres of land located off Marion Drive and Cushman Drive (the “site”) in Kingston (the “municipality”) with an associated community building, access road, parking, stream crossing, utilities, and stormwater features on assorted parcels along Thomas St., including Off Pleasant St. and Pleasant St. Map 66 Lots 29, 32, 33, 35, 37, 38, 40, 41, 42, 47 and Map 75 Lots 5 and 7. Mass Housing ID #1159. Plot Plan by Coneco Engineers & Scientists, Bridgewater, MA. Drawn by Surveyor Timothy S. Bodah, PLS dated September 28, 2023. Comprehensive Permit Plans by Coneco Engineers & Scientists. Plans drawn by Engineer Damien J. Dmitruk, P.E., dated October 2, 2023.

MINUTE APPROVAL:

MOTION: To APPROVE 10/19/2022 minutes by Mr. Dahlen and seconded by Mr. Goldberg VOTE: 5-0-0
To APPROVE 12/7/2022 minutes by Mr. Dondero and seconded by Mr. Goldberg VOTE: 5-0-0
To APPROVE 3/6/2024 minutes by Ms. Marsha Meekins Smith seconded by Mr. Wrightington VOTE:4-0-0
To APPROVE 3/20/2024 minutes by Mr. Dahlen and seconded by Mr. Goldberg VOTE: VOTE: 5-0-0
To APPROVE 5/15/2024 minutes by Mr. Goldberg and seconded by Mr. Wrightington 5-0-0

Mr. Goldberg read the Public Hearing notice for Riverview Properties, LLC. And motioned to open the hearing seconded by Mr. Wrightington

VOTE: 5-0-0

Appointment:

7:05 PM - On remand from the Housing Appeals Committee, a Public Hearing will be held at the Town Hall, 26 Evergreen Street, Room 200 and Zoom on Wednesday, May 1, 2024, at 7:10 PM to hear the petition of Thomas Drummond, Manager Riverview Properties. LLC, 67 Cushing Drive, Duxbury, MA 02332, to request a Comprehensive Permit under Massachusetts General Laws Chapter 40B, to allow construction of twelve (12) units, including three (3) affordable units located off May Ave and Post Court, Kingston, MA.

Attorney Galvin representing Riverview Properties, LLC., introduced the people with him. He referred to 2020 and the Public Hearing which closed 2021. The project's final plan was reduced to 20 units with affordable housing. The final plan offered to the ZBA in 2021 during the hearing process was a 16-unit plan. The board offered 4 units resulting in an appeal to Housing Court. Attorney Galvin spoke of the number of years this has been going on and the mediation that took place with the ZBA members as well as Town Counsel. Spoke of the economics of the project and that this project is not economic at 12-units being reduced from 20 then 16.

Mr. Dahlen stated that Fire will want a 2-point access.

Brad McKenzie, McKenzie Engineering Group displayed 12-unit plans and briefly explained.

Mr. Dahlen stated that the fire department tower truck would bottom out and not make the cut. Speaking of a grade change of about 4% and an issue of the turn in.

Bra McKenzie stated that the plans are conceptual at this point. There will be a peer review process and go through getting comments again. They are looking to find out whether the board

Mr. Dahlen stated to move to the next level with this concept you need to move through to the end. Questioned parking.

Mr. Goldberg pointed out that there was no parking on the plans.

Mr. Dahlen requested to change the concept for open space and add parking.

Mr. Goldberg asked about the original 20-unit plan and the number of bedrooms. Are the bedrooms the same on this plan.

Paul Cusson, Delphic Associates stated that the bedroom count has been reduced proportionally from the original plan. Along Post Court there is a substantial buffer with an existing house abutting it. There will be no access to Post Court from the development. Speaking of conversation with Attorney Talerma, Town Counsel regarding the mediation. Spoke of the past working with the ZBA. Looking for the approval of 12-units. They trying to look for something that works mutually. There are still things that need to be worked out. Applicant would like the town to work with them to make this work.

Mr. Goldberg applicant is presenting a plan with bare bones minimum. He expressed his concern of conservation.

Mr. Dondero stated that he still taking everything in.

Mr. Wrightington said the plans need a lot more details. He believes that 12-units is still a lot. Expressed concern of the wetland line deviating into #1.

Brad McKenzie speaking of the wetland on overlay plan and buffer zone which is 50' away from the wetlands which is less of an impact on the buffer zone and vegetation. The plans do not have a landscape plan yet. The mark is not in the wetlands.

Mr. Cusson pointed to the open space on the plans and said they could put parking there.

Mr. Wrightington spoke of the road going in being 18' wide and must have room for emergency vehicles/ladder truck.

Paul Cusson stated that it is the same layout as the previous plan. The change is in the units.

Mr. Goldberg asked if the Housing Appeals Committee gave any direction on remand.

Mr. Mullen thinks the concept works but applicants do not need to be aggressive to volunteers who are here to help the town and appeals.

Attorney Galvin read the Joint Motions and Board of Appeals.

Mr. Dahlen stated that there is no water. There needs to be a well. Are you planning on driving a well per unit or a bigger well.

Mr. Cusson stated there is no DEP water moratorium proposed. The issue is a local concern that is overwritten by 40B.

Mr. Dahlen stated that the ZBA can make the water issue a condition. There are other 40B's that understand the concept. There is a water moratorium.

Brad McKenzie a solution to this problem would be to create a definitive 40B plan and put every unit on its own lot with each having it's own well. There's no setbacks or nitrogen loading impacts to be concerned about.

Attorney Talerman, Town Counsel spoke of the water moratorium, site plan and procedure. There is no capacity of water now. Private wells will need some review. The Board of Health has a regulation in town for individual wells with setbacks so when they form lotting, they are going to need waivers from those setbacks. There will have to be some test pits because the Board of Health will want to chime in on this. Peer review should be started soon. If further extensions are done it will have to be 90 days from today to keep the hearing open. Attorney Talerman commented on process and thinks that it is their obligation to provide the ZBA with enough information. The burden is on them. The board can give constructive feedback, we have 90 days. Attorney did the mediation. Some of the elements of the plan don't match up. The things that don't match up emergency access, parking, parking in the driveways were short, visitor parking, distance to wetlands and house close by. There could be more responsive plans for the board to decide.

Mr. Goldberg expressed his concern that the applicant is stating that you either except this or we go back to court.

Attorney Talerman replied that he cannot speak for the applicant. There is a way to this site plan that addresses the board's concerns more clearly.

Paul Cusson didn't mean to say take it or leave it. He wanted to say that economically they need 12 units. Some of the things Attorney Talerman has raised they can do.

Mr. Dahlen stopped Paul Cusson and let him know that the board doesn't have a problem with the units it's considering each one of these as a crate because you can't go out the back or you fall into the wetlands, you walk out the front and you're in the street and parking takes up the whole driveway. It's the bedroom count that's the problem. The concept isn't bad, it's just not well. Change the concept and maybe the board can work together.

Paul Cusson spoke of marketing issues.

Mr. Dahlen replied that is the applicant's issue.

Paul Cusson said they would look at adjusting the bedrooms.

Brad McKenzie asked if the board is willing to entertain a plan that is 30-40% less impactful than the plan that is before HAC in which Mass Housing issued a 24-unit site eligibility letter? Are you willing to further this process and have them provide more information.

Pine DuBois, Jones River Watershed Association, Jones River Landing, 93 Elm St., spoke of the flooding analysis, still pictures with flooding on property, spoke of the flood plain, plans to raise the boat shop due to rising tides. What is the longevity of these homes? Who pays when the homes have to be raised. Not a good idea to put those homes anywhere near the buffer or elevation of 12-14. We are too far behind science. Spoke of climate change and as a town we need to face it. There will be storm surges. Spoke of the Ad De Nah having to raise the parking lot. Asking to come up to speed on what is going on.

Brian Malmberg, 9 May Ave., it is a small lot and doesn't understand. He moved to Kingston not to the city to get away from the small lots. It's a non-conforming neighborhood. If the board approves these units you're not doing any justice for the town.

Tree Kuharich, 5 Post Court expressed her concern that the problems are not solved with this. Took units out but made the current units bigger didn't fix the previous concerns.

Attorney Talerman discussed that they can only talk about executive session from a strategy standpoint. The board is doing a good job of putting it out there. Would like to do everything in a public hearing. They must talk to fire, they need to think about the parking issue, the water issue will be a change. They will need to speak with the BOH. Recommended a continuation.

Attorney Galvin told the board that they would extend the time frame beyond considering the additional information. Is there an idea that the board can accept 12 units.

Attorney Talerman spoke of the next version here can address that to see if that's something the board could work with.

Mr. Goldberg is concerned about the water table.

Attorney Talerman expressed that he is concerned but we don't have statutes and regulations as a tool for the board to work on. The shift further away from the wetlands could be helpful. Pine DuBois does a good job.

Pine DuBois wanted to advise that if the applicant goes down the route of a private well that there is water sampling done. If geothermal it is not going to work because the water is salty.

MOTION: Mr. Goldberg motioned to CONTINUE to August 7, 2024, at 7:00 PM seconded by Mr. Wrightington

VOTE: 5-0-0

ADJOURN: Mr. Dondero motioned to ADJOURN at 8:28 PM, seconded by Mr. Wrightington

VOTE: 5-0-0

Respectfully submitted,

Debora Barry

Executive Secretary Zoning Board of Appeals