



**Office of  
Kingston Board of Appeals**

Town House  
26 Evergreen Street  
Kingston, MA 02364

**BUSINESS MEETING MINUTES  
ZONING BOARD OF APPEALS  
February 2, 2011**

MEMBERS PRESENT: John Haas, Carl Pike, David Rose, George Boerger, Philip Ricardi, George McAdams

NOT PRESENT: Paul Dahlen

OTHERS PRESENT: Thomas Bott, Town Planner arrived at 7:45

Mr. Haas opened the meeting at 7:30 pm

Mr. Ricardi was appointed a full member of the Board.

7:30 Ahern – Special Permit-7 Maple Street

Mr. Rose read the public hearing notice. Drew Murphy was present for the hearing. The applicant is requesting a special permit to alter the roof line to allow more living space on the second floor. The house is a two story house with two bedrooms. The Special Permit is to just increase the living space. There will be no change in the setbacks. The foot print of the structure would remain the same. There was discussion concerning sewer capacity and it was determined that it would not be an issue. Mr. Haas asked if any members of the public were present to speak about the project. No one came forward.

Mr. Boerger moved to close the hearing. Mr. Ricardi seconded. The vote carried unanimously.

Mr. Boerger moved to instruct the clerk to prepare a decision granting the special permit requested by the applicant consistent with the drawings submitted to the Board this evening. Mr. Ricardi seconded. The vote carried unanimously.

7:42 Cumberland Farms

Mr. Rose read the public hearing notice. Attorney Robert Pellegrini, John Marthe, Project Manager and Richard Boyle, Regional Manager were present for the hearing. The applicant is seeking a variance and/or special permit to allow a 8x19 ft 148 sq ft storage freezer. They are requesting a special permit because of the permitting that has occurred in the past. In 2000, a special permit and variance was granted by the Planning Board and the ZBA. There is currently a canopy in place in the area of the proposed freezer. The canopy is currently 15 feet from the front lot line. The store itself meets the setback but the addition will bump it out by 7.5 feet towards the street. The applicant stated that having the freezer is vital to the business and will reduce the number of deliveries Mr. Pellegrini stated that the proposal for a special permit would fall under MGL 40A sec. 6, and that it is already nonconforming because of the canopy and prior permits. Mr. Marthe stated there is an existing five foot sidewalk and the addition would be 2 feet wider than the existing sidewalk and that all of the equipment would be enclosed.

There was discussion concerning the 2000 Variance that was granted and Mr. Pellegrini stated that it could not be located. He stated that there was a 2004 permit that altered the number of driveways.

Mr. Boerger stated he would like to see a copy of the 2000 Variance.

Mr. Marthe stated that wetlands in the rear of the property prevented the freezer from being placed in another area on the property.

The litigation concerning CK Smith was discussed and there were discussions as to whether the variance ever existed. The Board discussed continuing the hearing to allow time to research the issue and determine if the variance ever existed.

Mr. Bott added that the Planning Board has reviewed the site plan and has no issue with the freezer in front of the setback and there is a date to modify the Special Permit for the Planning Board, but the Planning Board can't move forward until the ZBA has made a decision.

Mr. Boerger moved to continue the hearing to March 2, 2011 at 7:30 pm. Mr. McAdams seconded. The vote carried unanimously.

#### 8:10 –General Business

Chandler Decision – Mr. Rose recused himself. Mr. Boerger moved to grant the Special Permit consistent with the draft decision submitted of the Board with slight modifications. Mr. Pike seconded. The vote carried unanimously (voting were J. Haas, G. Boerger, G. McAdams, P. Ricardi, C. Pike)

The minutes of January 5, 2011 were reviewed. Mr. Boerger moved to accept the minutes, Mr. Pike seconded. The vote carried unanimously (voting were J. Haas, G. Boerger, G. McAdams, P. Ricardi, C. Pike)

Mr. Haas reviewed a letter regarding Barrows Brook 40B was reviewed. Mr. Rose recused himself from the discussion. Mr. McAdams was appointed a member. Mr. Haas referenced that the Comprehensive permit required that 55 acres of land be turned over to Conservation Commission. There has been issues in getting the deeds conveyed over and as a result occupancy permits can not be issued until this requirement has been completed. The applicant has some homes that are under agreement and is requesting that there be some sort of a waiver so that some occupancy permits can be issued. . The Board discussed that they would like to communicate with Conservation Commission to determine why there is an issue with accepting the deeds for the property to be turned over.

Mr. Pike moved to change condition #36 in the Comprehensive Permit to read 6 Occupancy Permits. Mr. Ricardi seconded. The vote carried unanimously.

It was unanimously voted to adjourn the meeting at 8:30 pm