



**Office of
Kingston Board of Appeals**

Town House
26 Evergreen Street
Kingston, MA 02364

**BUSINESS MEETING MINUTES
ZONING BOARD OF APPEALS
July 20, 2011**

MEMBERS PRESENT: John Haas, David Rose, Carl Pike, Paul Dahlen, David Rose, George Boerger, Philip Ricardi; NOT PRESENT: George McAdams OTHERS PRESENT: Paul Armstrong, Zoning Enforcement Officer

Mr. Haas opened the meeting at 7:30 pm.

7:30 Independence Center LLC-SP & Variance/Expansion of Cinema for stadium seating

Mr. Rose read the public hearing notice. Attorney John Wyman and Bill Hamilton, General Manager, were present for the hearing to request a special permit and a variance. The special permit is to allow modification of a pre existing non conforming structure to enlarge the impervious surface. When the Mall was constructed the pervious/impervious surface ratio was 20%. By an amendment to the by-law after the Mall was built, the ratio was reduced to 15%. The variance is for building height requirements. Mr. Wyman referenced the memo provided to the board and reviewed the same. Bill Hamilton, General Manager, reviewed the plans for the proposal and stated that the expansion will allow the cinema to remain competitive in the market. In order to do so, it will be necessary to extend the roof of the existing Mall structure from its present twenty-six feet height to an overall height of forty-five feet in the area of the theaters. There will be no expansion of the existing building footprint nor will additional parking be required to service the renovated complex because not only will the area of the present retail establishment be incorporated into the theaters, the number of seats offered at the newly configured theaters will actually be reduced. Mr. Hamilton read a letter in support dated July 11, 2011. There will be a phased construction and the theater will continue operation during construction. Mr. Haas asked if the fire department had input on the proposal. Mr. Hamilton stated that they had a casual meeting and there was discussion about some things that were needed and plans were submitted to the fire department, but there has been no feedback yet. Mr. Armstrong stated that he did talk to the fire department and the Fire Chief and he feels they are comfortable with the proposal, there is still a lot of work to do to meet code, but they didn't see a problem.

Attorney Wyman talked about IMAX and stated that the cinema will be one of the only to have this feature in the area.

Mr. Haas asked if any members of the audience were present to speak about the proposal.

Mark Robinsten, 5 Smelt Pond Road spoke in favor of the project stating that he will see the raised roof from his house but has no problem with it.

Mr. Haas read from the minutes of the Planning Board meeting from February 2011 regarding the maintenance agreement. Attorney Wyman stated that there will be an agreement signed and money held in escrow.

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

Mr. Boerger moved to instruct the clerk to prepare a decision granting the special permit consistent with the request of the applicant with the condition of the Rabith Road Maintenance Agreement be in place. Mr. Pike seconded. Mr. Boerger added to the motion that the clerk prepare a written decision granting the Variance requested by the applicant conditioned upon the Rabith Road Maintenance Agreement. Mr. Pike seconded. The vote carried unanimously.

7:57 Govoni- SP 45 Howlands Lane (cont'd from 7/6/11)

Mr. Rose read the public hearing notice. The applicant was not present. Mr. Haas read a memo from Paul Armstrong. It was discussed that the applicant was to appear tonight to present more detailed plans of the proposal.

Mr. Boerger moved to continue the hearing to August 3, 2011 at 7:30 pm. Mr. Rose seconded. The vote carried unanimously.

8:00 Wrightington- #1277 63 Wapping Road-Refusal of Building Inspector Permit/Violation – cont'd from 4/6/11; 4/20/11; 6/15/11; 7/6/11

Mr. Rose read the public hearing notice. Attorney Kraus and Kevin Wrightington were present for the hearing. Mr. Haas restated that the purpose of the hearing was to review the Building Inspectors decision. Mr. Kraus stated that today he submitted an application for a Special Permit and made a request to suspend the hearing on the Building Inspector decision and not vote on it tonight. After discussion, the consensus of the Board was that they didn't see a problem with continuing the hearing so long as the hearing for the Special Permit proceeded as expeditiously as possible. Mr. Haas felt that continuing the hearing could prejudice those opposed. Attorney Kraus stated that in the meantime the applicant will continue to work with the neighbors in an attempt to resolve issues.

Mr. Boerger moved to continue the hearing to August 17, 2011 at 7:30 pm. Mr. Pike seconded. The vote carried 4-1, Mr. Haas opposed.

General Business

The minutes of July 6, 2011 were reviewed. Mr. Boerger moved to accept the minutes as revised. Mr. Dahlen seconded. The vote carried unanimously.

It was unanimously voted to adjourn at 8:25.