



**Office of  
Kingston Board of Appeals**

Town House  
26 Evergreen Street  
Kingston, MA 02364

**BUSINESS MEETING MINUTES  
ZONING BOARD OF APPEALS  
July 6, 2011**

MEMBERS PRESENT: John Haas, David Rose, Carl Pike, Paul Dahlen, David Rose, George Boerger, Philip Ricardi; George McAdams OTHERS PRESENT: Paul Armstrong, Zoning Enforcement Officer

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

7:30 Govoni- SP – 45 How lands Lane

Mr. Rose read the public hearing notice. Doug Govoni was present for the hearing to request a special permit to add a room above the garage in a preexisting non conforming structure. The proposed room will go above garage within the same footprint and will not exceed the existing height of the highest part of the structure. The house is currently a five bedroom house. Parking was discussed and it was determined there is ample parking. It was discussed that there not be the only plumbing will be for a half bathroom and that it does not have the potential to become a two family home.

Mr. Haas asked if any members of the audience were present for the hearing. No one came forward.

It was discussed that the applicant provide the Board with a more detailed plan of the proposed addition. Mr. Boerger moved to continue the hearing to July 20, 2011 at 7:35. Mr. Rose seconded. The vote carried unanimously.

7:40 Wrightington

Mr. Rose read the public hearing notice. Attorney Robert Kraus, Linda Wrightington and Kevin Wrightington were present for the hearing. Attorney Kraus stated that since the last meeting he had met with Mr. Labriola at his office and at his home tonight prior to the hearing. Mr. Kraus sated that there is a significant buffer, that the Wrightington's operation is seasonal and there is not a lot going on in the summer months. Mr. Kraus stated that he asked Mr. Labrioloa what the applicants can do to address concerns and Mr. Labriola's response was that he simply doesn't want a propane business. Atty Kraus brought up the option to amend the petition to a special permit. Attorney Kraus also stated that he discussed with his clients the option of a deadening sound structure/material.

Mr. Haas reiterated the issue before the Board is related to the Building Inspector's opinion as to what is going on with the property and read Mr. Armstrong's cease and desist letter into the record. Mr. Haas referenced a letter from R. Vale which was not dated. He read the Vale letter, Seibert Letter and Zabbo Letter into the record. Attorney Kraus moved to strike the opinion of Mr. Zabbo as it is outside the scope of the hearing. Mr. Haas turned it over to the board to make a motion to that effect. Mr. Ricardi moved to strike the letter. Mr. Dahlen seconded and the motion was opened for discussion. Mr. Boerger stated that this not a court with rules of evidence. The Board already agreed the letter has no relevance but doesn't see any harm keeping it in the record as it is public information. The vote was 3 opposed and 2 in favor to strike the letter from the record. The motion did not carry.

Mr. Haas polled the Board. Mr. Boerger stated that he requested from Mr. Kraus at the prior meeting to try to find a provision in the bylaws and regulations that would allow this business to operate. Mr. Haas referenced the May 2004 decision which was all about boats and had no mention of a propane business. Atty Kraus responded that was because that was the new business coming in, the propane business was already there. Mr. Boerger referenced the 1974 Variance. Mr. Haas stated that was overturned by the court. Mr. Boerger cited in particular the language

concerning the operation of the business as a “retail and wholesale business.....plants, insecticides, hardware, fertilizers.”

Mr. Rose stated that if the hearing before the Board were for a special permit it would be appropriate to review the evidence, but the issue is the ZEO letter. He stated it is likely that the existence of a propane business was discussed but there was never a special permit issued for it. Mr. Rose reference the By-laws and there is no specific provision that the operation of a propane business in the By-law to allow the ZBA to grant a special permit. Mr. Rose stated that there was not a previous permit granted in 2004 because the law did not allow it. The applicant could apply for a special permit as an expansion of a business use. There is no evidence that there was ever an application made for that use and there should be explicit intent.

Mr. Haas asked if any members of the public were present to speak.

Thomas Hatch 127 Wapping Road, stated that the prior board knew what was going on in property, Mr. Wrightington had a business with propane prior to his owning this property.

Mel Sampson, said he worked for utility company and would be on call and they had to have vehicles on the site to respond. He feels that Kevin helps the gas companies and town departments and he is just trying to service the town.

Michelle Levine, 8 Nelson, said she has been there since 2002, never knew there was an issue and is not opposed to the operation of the business as long as it is safe.

Steve Dorren, 102 Elm Street, said that it is important to take into consideration the hardship, he feels the applicant is providing a good service.

Dennis DiBona, 19 South Street, pointed out that the building permit issued was for equipment which is a wide use. He feels the Wrightington's are operating a good business, and the site is where he parks trucks only.

Alex Bebe, 69 Wapping Road, stated he has been there since 1978 and has never had any trouble and is in favor of business.

Ralph Labriola, 26 Nelson Street, referenced the Zoning By-law Sec. 6.7.10, there is no use in the by-law for hazardous material. He feels they are being denied protection by the by law. He is affected by trucks in the early morning. He stated he would like to see property go back to passive storage and that he is willing to sit down with the applicants. He doesn't want to deny his operation of a business.

Ruiz Santos 67 Street, stated he would like to see something worked out and that he does think it is a danger.

Mr. Pike moved to close the hearing.

Attorney Kraus requested that the hearing be continued for a two week period to present evidence and affidavits so the record can be spread with documents that support them and it will also allow time for a special permit application to be considered.

Mr. Pike stated he does not object to a request for a continuance and amended his motion to continue the hearing to July 20, 2011 at 7:40 pm. Mr. McAdams seconded. The vote carried 4-1.

The minutes of May 18, 2011 were reviewed and approved.

Mr. Rose moved to confirm that the hearing for Wrightington be continued to July 20, 2011 at 7:40 pm. Mr. Pike seconded. The vote carried 4-1 (G. Boerger opposed)

It was unanimously voted to adjourn the meeting at 9:20 pm.