



**Office of
Kingston Board of Appeals**
Town House
26 Evergreen Street
Kingston, MA 02364

**BUSINESS MEETING MINUTES
ZONING BOARD OF APPEALS
July 1, 2009
DRAFT**

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

Mr. Haas opened the meeting at 7:30 pm and introduced and welcomed George McAdams as the new alternate member of the Board.

7:30 Wrightington – Review of ZEO Decision and Special Permit

Mr. Rose read the public hearing notice. Kevin Wrightington was present for the hearing. Mr. Wrightington owns the properties located at 63 and 67 Wapping Road. He provided the Board with a set of plans. Mr. Haas read letters from Paul Armstrong dated August 8, 2008, October 7, 2008 and April 27, 2009 into the record. Mr. Haas also read an undated memo from Mr. Wrightington to Mr. Labriola which was in response to a letter from Mr. Labriola dated August 8, 2008. Mr. Wrightington handed out photographs of the property and an excise tax bill. He explained that in 1988 he purchased the property which at the time was a garden center. In 1989, he purchased the house next door on 67 Wapping Road where he currently resides. At one point the property was rented to North River Feed which operated a garden center. Mr. Wrightington stated that a special permit was not required at that time because it was already in use as a garden center. In 1988 he came before the Board for a special permit to operate an appliance store, but was denied.

Mr. Armstrong stated that a landscaping business does not conform to the zoning bylaws and that previous tenants, such as the Blooming Place and Sunset farms were greenhouse garden centers which uses did not require a hearing before the Board. Mr. Armstrong showed an existing plan. The area is zoned residential. At one point, it was owned by Mento and operated as a nursery with landscaping as an accessory use. Mr. Wrightington bought the property after the nursery business left. A special permit was obtained to run an upholstery business, then a boat business. There is now no primary nursery business in use and there has not been for quite some time. Mr. Wrightington stated that the greenhouse has been torn down. Mr. Armstrong added that the use of a landscape or contractor yard has never been established by the Town. Mr. Armstrong feels that there is a nuisance caused by the present use of the property by the applicant. Mr. Armstrong also questioned if there was a special permit in place for the propane business.

Ralph Labriola of 26 Nelson Street, has been an abutter since 1990. He referenced the zoning by laws of the Town, specifically 6.7. He expressed his concern of the hours of operation and that there is noise from the property as late as 9:00 – 10:00 at night and as early as 6:00-7:00 am on the weekends. The tanker trucks on the property cause his house to shake and vibrate and he complained about trucks beeping. He would like to see a plan in place to reduce vibrations and noise and proposes an eight foot fence. He added that he does not want to hurt Mr. Wrightington's business but would like some consideration.

Scott Ludwig of 21 Nelson Street is concerned about the noise issue. The noise has awoken the kids during the night. He is concerned about property value and that there is more construction debris on the property rather than landscape material.

Mr. Haas informed the applicant that he should come up with an acceptable plan addressing the concerns of the abutter and review issues such as business hours of operation.

Mr. Boerger stated that he feels strongly that there are a lot of things going on with the property and is concerned that it is happening in a residential area. Mr. Rose stated that he would not be in favor of granting a special permit for the way things are currently operating. Mr. Dahlen is in agreement but not with such a hard stance as there already was an existing business on the property and stated he would like clarification of exactly what businesses are currently in use. Mr. Pike stated that he would like to see a real plan of what is being requested for the Special Permit and how to minimize the impact.

Mr. Haas suggested that the applicant that he not continue to operate any business on the property for which he does not have a special permit.

Mr. Boerger moved to continue the hearing to July 15, 2009 at 7:30 pm. Mr. Dahlen seconded. The vote carried unanimously.

8:40 Mass Property Solutions

Mr. Rose read the public hearing notice. Attorney Robert Kraus and Mr. Weiss were present for the hearing. The applicant showed pictures to the members of the Board of the basement to try to show the height. Mr. Kraus handed out a plan for a new proposal which raised the basement ceiling height and adds a bedroom in the basement with two bedrooms on the upper level. Construction will be within the footprint of the existing dwelling. The existing height is 14.2, the first proposal had a 28.2, the new proposed plan has a height of 27.6. The issue of parking was discussed and determined there is adequate parking on the site.

The main entrance shown on the plans was discussed. The Board would like to see it moved as it is too close to the parking area. The Board was polled and the consensus of the Board was that the second proposal is more favorable to the first proposal and conditions were discussed.

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

Mr. Boerger moved to instruct the clerk to prepare a written decision granting the special permit requested by the applicant consistent with the second proposal submitted with the two bedrooms on the upper level and one bedroom in the basement, with a maximum roof height of 29 feet. The applicant will provide Mr. Armstrong with an acceptable plan meeting these conditions. Mr. Pike seconded. The vote carried unanimously.

General Business

The minutes of June 17, 2009 were reviewed. Mr. Pike moved to accept the minutes as amended. Mr. Boerger seconded. The vote carried unanimously, Mr. Dahlen abstained due to his absence at the meeting.

It was unanimously voted to adjourn the meeting at 9:50 pm.