

TOWN OF KINGSTON
ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING
JULY 13, 2023

PRESENT: Peter Coffin, Chair; Meghan Kelley, Vice Chair; Peter Broderick; Shaw Tilton; Kyle Bache (alternate); Members

Robin Carter, Administrative Assistant

ABSENT: Richard Russman, Member

Mr. Coffin called the meeting to order at 7:00 PM.

Mr. Coffin stated that Mr. Bache would be a voting member tonight.

A quorum was present at the meeting.

PUBLIC HEARING

**Summit Distributing, LLC Kingston Crossing, Inc.
249 N.H. Route 125
Map R40 Lot 15**

Summit Distributing, LLC requested a continuation to the August 10, 2023 public hearing.

Mr. Coffin read the legal notice:

The applicant is requesting a Special Exception (Article 109:7) to allow a retail motor fuel outlet with a 5,100 sf convenience store/quick service restaurant and 5 retail fuel dispenser islands (10 fueling locations) and 3 high speed commercial diesel islands (2 fueling locations) within the Commercial II District.

The applicant has been informed and is aware that continuing the hearing will extend their Special Exception application beyond the 90-day decision period required by NH RSA 674:33, and have waived this requirement.

MOTION: by Mr. Broderick to continue the Summit Distributing, LLC public hearing to August 10, 2023 at 7:00 PM at the Kingston Town Hall to discuss and determine what conditions, if any, must be met by Summit Distributing, LLC in order to comply with Article 109:7; A. of the Town of Kingston Ordinance.

SECOND: by Ms. Kelley

All in Favor, Motion passed (5-0-0)

There will not be another notice in the paper and abutters will not receive another notice in the mail. The public is advised that this is the notice to continue for this hearing. **The Summit Distributing, LLC public hearing will begin at 7:00 PM on August 10, 2023 at 163 Main Street, Kingston, 2nd floor of the Town Hall.** A notice will be posted on the Town, ZBA website and will be posted downstairs at the Town Hall.

50
51 **BOARD BUSINESS**

52
53 **Approval of Meeting Minutes (June 1, 2023):**

54 The following revisions were made: Line 50 Change C-I to C-II. Line 428 change ruthfulness to
55 truthfulness. Change the spelling of Brouhard to Bouchard.

56 **MOTION:** by Mr. Broderick to accept the minutes of the June 1, 2023 as amended.

57 **SECOND:** by Ms. Kelly

58 Mr. Shaw abstained.

59 **Motion passed (4-0-1)**

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61 **Approval of Meeting Minutes (June 8, 2023):**

62 **MOTION:** by Mr. Broderick to accept the minutes of the June 8, 2023 as written.

63 **SECOND:** by Mr. Bache

64 Ms. Kelley and Mr. Shaw abstained.

65 **Motion passed (3-0-2)**

66
67 **Correspondence:**

- 68
69 - **Invoice #561 from Truslow Resource Consulting, LLC, dated May 24, 2023, for the**
70 **review of Unitil transmission right of way herbicide application.**

71 **MOTION:** by Mr. Broderick to pay the invoice from Truslow Resource Consulting, LLC in
72 the amount of \$3,274.80 from the Unitil Service Corp. escrow account.

73 **SECOND:** by Mr. Tilton

74 **All in Favor, Motion passed (5-0-0)**

75
76 **MOTION:** by Mr. Broderick to return the remainder amount to Unitil Service Corp. from
77 their escrow account.

78 **SECOND:** by Mr. Tilton

79 **All in Favor, Motion passed (5-0-0)**

- 80
81 - **Invoice #566 from Truslow Resource Consulting, LLC, dated July 12, 2023, for the**
82 **hydrologic evaluation of proposed Summit Fuel Depot project for 249 Rte. 125.**

83 **MOTION:** by Ms. Kelley to pay the invoice from Truslow Resource Consulting, LLC in the
84 amount of \$2,271.20 from the Summit Distributing, LLC escrow account.

85 **SECOND:** by Mr. Broderick

86 **All in Favor, Motion passed (5-0-0)**

- 87
88 - **Unitil Service Corp. – re: use of herbicides in the Unitil electric line ROW**
89 - Email from Dana Akers, resident of Kingston, dated July 12, 2023 to the ZBA and Board of
90 Selectmen (BOS). re: Unitil/utility line herbicides comments and information requests. Mr.
91 Coffin read Mr. Aker's email.

92
93 Mr. Coffin mentioned that Susan Ayers, BOS Administrator contacted NHMA attorney regarding
94 the BOS and ZBA's decision on their herbicide application. This information is privileged
95 information.

- 96 ▪ During the ZBA public hearing on June 8, 2023 the ZBA voted to deny Unitil's
97 request for an Appeal to the Administrative Decision based on the fact that the
98 BOS did not make an error in their opinion to deny the Unitil Herbicide proposal.
99 ▪ The Board did discuss at the June 8th meeting the opportunity for Unitil to appeal
100 through the special exception process. Shortly thereafter, it was discovered that a

special exception only applies to certain categories and does not apply to Article 201.4:E-18 and they would need to apply for a variance if they submitted a new application.

- Unitil has decided to comply with the ordinance and will tell their contractor to use less than 25 gallons of herbicide. They will not be applying for a variance through the ZBA.

- Mr. Coffin read the letter from Chris Moultroup, Manager – Forestry Operations of Unitil, dated July 7, 2023 that was sent to the BOS regarding the use of herbicides in the Unitil ROW's. (Copy available in the ZBA office upon request).
- The BOS sent a follow up letter (signed 07/10/2023) to Unitil Forestry, Attention Chris Moultroup regarding the BOS initial letter of April 11, 2023 that denied their request to apply herbicide in the power lines right-of-way. The letter explained that the BOS "reversed their earlier decision based on the information gained during the ZBA process". (Copy of letter is available in the ZBA office upon request).
- Mr. Coffin commented that the aquifer protection maps are on the Town's website under the Planning Board section. Any utility can get this information which will help them accurately map the aquifer protection zones.

Pam Brown of 23 Sunshine Drive was in the audience. She sent an email to the BOS and copied the ZBA. The correspondence was about the Unitil herbicide matter. Ms. Brown said that the email was intended for the BOS and not the ZBA, therefore, it was not discussed during the ZBA meeting tonight.

ADJOURNMENT

Meeting adjourned at 7:35 PM.