



KINGSTON ZONING BOARD OF ADJUSTMENT

March 9, 2017

Present:

Ray Donald
Chuck Hart
Peter Coffin
Richard Johnson
Larry Greenbaum
Tammy Bakie

Vice Chairperson Ray Donald called the meeting to order at 7:00.

Minutes of January 12, 2017 Approval – Mr. Coffin motion to approve, Mr. Hart seconded. The motion carried unanimously.

Public Hearings

Robert Kalil
24 Chase Island Road
Atkinson, NH 03811

John Crosby
19 Page Road
Kingston, NH 03848
Tax Map R-22, Lot 32

Robert Kalil and his attorney Patricia DiMeo requests a rehearing of an application for a variance originally heard by the board on December 8, 2016. Attorney DiMeo explained her reasons the rehearing should be granted. Attorney DiMeo stated her client was not noticed of the December 8th meeting. Attorney DiMeo stated now where in the minutes does it state what or how the Board decided the variance was not in the public interest. Attorney DiMeo stated it is in the public interest to have affordable housing, Kingston has few if any apartments, the town has age restricted districts but zoning ordinance do not provide for affordable housing. Mr. Coffin spoke about accessory dwelling units in town and a number of buildings with four apartments. Mr. Coffin stated that according to a recent study Kingston has a lower cost per unit in the County, and has a lot of work force housing. Mr. Donald stated the minutes reflect justification for being denied. Attorney DiMeo reiterated that zoning ordinance allow for age restriction districts and duplexes. Mr. Coffin stated the ADU is specifically in place to allow for low cost apartments. Attorney DiMeo countered that the apartments required a family member. Mr. Coffin stated that requirement was removed several years ago by state statute. A discussion followed regarding if property was considered a duplex. Mr. Donald stated the town is in compliance the property was not, it is a multi-unit building without approval from the planning board or building inspector. Attorney DiMeo again spoke about her client not being noticed. Mr. Greenbaum stated Mr. Kalil provided mailing list and neglected to put himself on list. Attorney DiMeo stated Mr. Kalil was not an abutter and did not have the

date of the hearing. Attorney DiMeo stated the proposed use is residential and not contrary to the spirit of the ordinance. Attorney DiMeo stated the board found that granting the variance would not do substantial justice, she stated it would correct the injustices over the years, giving examples from tax cards and property files. Attorney DiMeo stated the Board found granting the variance would diminish the surrounding properties values which she contested and described adjacent properties and their values, stating they could bring in real estate agent to verify values. Attorney DiMeo stated that by not granting the variance it would result in an unnecessary hardship. Attorney DiMeo stated there was a fair and substantial relationship between the proposed use and the ordinance. Attorney DiMeo questioned whether it should be a special exception vs. a variance. Mr. Coffin stated he had researched and spoken with a professional planner and it should be a use variance. Mr. Donald stated any one of the criteria did not pass the variance would be denied it did not have to be all five. A discussion followed regarding Doctrine of Laches and paperwork on file regarding Mr. Kalil representing the property owner. Mr. Donald stated there was documentation of denial of access to property and town employees/departments having no obligation to convey information, the building inspector was approached for occupancy permit which was denied because the apartment was not legal. Mr. Donald asked for comments from the audience. Attorney DiMeo asked for clearly documented information regarding the criteria that failed, which she had not been provided. Mr. Donald stated the forms were in the file. Mr. Coffin stated he felt the Board acted properly but in the interest of fairness since the applicant was not noticed made a motion to grant a re-hearing. Mr. Greenbaum seconded. Mr. Donald asked for justification. Mr. Hart noted the massive amount of information provided by the applicant's attorney. Mr. Coffin amended the motion hearing to be conducted after a scheduled sight visit agreeable to the property owner. Seconded by Mr. Hart, 4 in favor 1 abstention. A discussion followed regarding the necessity to post the sight visit, entry into all apartment, a letter granting permission for the town and any members of the public to access property and a letter identifying Mr. Kalil as Mr. Crosby's representative. Mr. Hart asked if the applicant would be opposed to waiting until May for the hearing. Attorney DiMeo stated they had no objection.

**Margaret Pandelena
24 Long Hill Road
Raymond, NH 03977**

**RE: Tax Map U-3, Lot 44
30 Circuit Drive
Kingston, NH**

Ms. Pandelena stated the existing home is 15 feet from the road and she was asking to replace home that would be 19 feet from the road. Mr. Donald asked if it could be positioned to meet setback requirements. Ms. Pandelena stated the home would be too small. Mr. Coffin asked if the current home would be torn down and rebuilt. Ms. Pandelena stated yes and the dimensions would be decreasing as they would be building a two story home. Mr. Sal Ragonese provided maps. Mr. Coffin stated the impermeable surface would be decreased and spoke about the EPA requirements regarding a swale to keep water from running into the road. All five criteria passed unanimously. Mr. Coffin made a motion to grant an 11 foot variance. Mr. Greenbaum seconded, the motion carried unanimously. Mr. Donald explained the 30 day waiting period.

Meeting adjourned at 8:20

Respectfully submitted,

Tammy Bakie