

**TOWN OF KINGSTON, NEW HAMPSHIRE
ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING – NOVEMBER 9, 2017**

MINUTES

Present: Electra Alessio, Chair; Peter Coffin, Charles Hart, Larry Greenbaum and Richard Johnson, Members

Absent: Raymond Donald, John Whittier, Benedetto Romano

Call to Order: 7:00 PM.

APPROVAL OF PREVIOUS MEETING MINUTES: On a motion by L. Greenbaum, seconded by R. Johnson, the minutes of September 14 were approved (4 in favor, 1 abstention).

**7:05 PM: James F.L. Kenney
Sarnia Properties
Portsmouth, NH 03801**

**IN RE: Tax Map R-34, Lot 1
53 Church Street/Route 125
Kingston, NH 03848**

This is a public hearing whereby the applicant seeks a Special Exception to the terms of Article 303 of the Town of Kingston Zoning Ordinance, and asks that said terms be waived to permit four (4) 5' wide x 4' high signs along a 650' section of fence that faces Route 125.

The Chairwoman questioned whether the applicant should have requested a Variance, Special Exception or an Appeal of Administrative Decision due to the nature of the request, signage that is not addressed by the Ordinance and which was turned down by the Building Inspector.

Applicant James Kenney of Sarnia Properties presented the case for being allowed to install four signs on the fencing running along Route 125, with the corporate logos of the four largest tenants of Carriage Towne Plaza. Mr. Kenney explained that the fence was installed to improve the view of the site from the highway, and that he then wanted to add signage on the fence to highlight the major tenants. He said that as the plaza is not facing the road, people driving by do not notice it is there.

Mr. Kenney said that he had applied for a sign permit, which was approved. He had the signs made and installed, after which he received a notice of violation from the Building Inspector, and removed the signs. He said that he had been led to believe that 80 square feet of signage total would be allowed. Ms. Allesio said that the application was approved, but that the Building Inspector had not been clear on the type of sign. Signs affixed to fences are not addressed by the Ordinance and therefore are not allowed. In discussion it was noted that the original permit application was approved in July of 2016 and withdrawn some months later.

Mr. Coffin read from the ordinance the definition of a free-standing sign, which does not address the instance of a sign affixed to a fence. As this is not a permitted use, he said he felt the application should be for a variance, not a special exception.

The existing free-standing sign was mentioned, and Mr. Kenney said that it is hard to read as it includes all the businesses in the plaza. He said that the signs on the back of the buildings are now partially obscured by the fence.

The Chairman read into the record a letter received from the Planning Board on November 8, 2017. In the letter, Chairman Glenn Coppelman outlined several points of comment and concern discussed at the Planning Board's November 7 meeting. Concerns included that existing signage is sufficient, that additional signage could create distraction and safety hazards for drivers on the highway, and that placement of signs on the fencing could possibly set a precedent and undermine the intent and enforcement of the sign ordinance. The Planning Board members felt that the request would therefore be a contradiction to the spirit and intent of the ordinance.

The Board discussed the issue of setting precedent.

Public Comment: Carol Croteau introduced herself as a member of the Planning Board speaking as a citizen, and said that while she thinks Mr. Kenney has done a good job with the Plaza she is not in favor of the signs, as she thought they looked gaudy. Mr. Kenney answered that he did not find them gaudy, and pointed out that he had put up the fencing to obscure trash and propane tanks, and that only so much can be seen of the buildings above the fence.

Mr. Greenbaum asked Mr. Kenney if he has a copy of the signed permit originally issued on July 19, 2016, and he said he does, and that it reads, "wall sign". He noted that there was no box to check for "fence". Mr. Greenbaum pointed out that the Board has a copy of the original application, but not one signed by the Building Inspector. As neither the permit nor the cease and desist order were not found in the property file, Ms. Alessio suggested that the matter should be continued to the next meeting in order for the Board to have a clearer understanding of the chain of events.

MOTION: To continue this public hearing until Thursday, December 14, 2017 at 7:05 PM to allow for time to gain more information from the Building Inspector. Motion made by Mr. Greenbaum, seconded by Mr. Coffin, approved by all.

**7:45 PM: Kelly Ward
Jennifer Lynn Rodgers-Ward
7 Beechwood Road
Sandown, NH 03873**

**IN RE: Tax Map R-13, Lot 7
1 Meeks Road
Kingston, NH 03848**

This is a public hearing whereby the applicant seeks a Special Exception to the terms of Article 110 -Commercial Zone C - III, Section 110.5, of the Town of Kingston Zoning

Ordinance, and asks that said terms be waived to permit locating a welding manufacturing facility on this site. The Special Exception was originally granted on October 9, 2014, but has since expired.

Applicant Kelly Ward and Charles Zilch of SEC & Associates were present to discuss this case. The Chairman informed them that she had received a call today from the Chairman of the Conservation Commission, Evelyn Nathan, telling her that according to Ordinance Article 110.5.5, "Notification of the hearing will be provided to the Planning Board, Conservation Commission and Board of Selectmen" and that she had not received notification. Ms. Alessio said that in the past these boards were notified of decisions, but for prior notification relied on the posting of the agenda.

Mr. Zilch informed the Board that after the Planning Board hearing on this matter, he attended a Conservation Commission meeting, and that Ms. Ward met with them as well. There was some discussion on whether to proceed with the hearing or continue, given that the Conservation Commission was aware of the case but had not been formally notified of this hearing.

MOTION: To continue this case re: Map R13, Lot 7 until December 14, 2017 at 7:15 PM. Motion made by Mr. Coffin, seconded by Mr. Greenbaum. Vote: 2 in favor, 2 against. The Chairwoman made the deciding vote in favor of continuing the case to the December meeting.

**7:45 PM: Sal Ragonese
Bluestone Investment Group, LLC
18 Brush Hill Road
Merrimac, Mass. 01860**

**IN RE: Tax Map R-33, Lots 21, 21-3, 21-4, and 21-5
4 Marshall Road
Kingston, NH 03848**

This is a public hearing whereby the applicant seeks a variance to the terms of Article 208, Section 5(B)(1)(b) of the Town of Kingston Zoning Ordinance, and asks that said terms be waived to permit the construction of Market Rate Age-Restricted Housing. The ordinance requires 20 acres for this type of project; however, the proposal has 17.93 acres and thus an area variance is required.

Present to discuss the case were applicant Sal Ragonese, Attorney FX Bruton of Bruton & Berube, and Barry Gier of Jones & Beach Architects.

Mr. Bruton introduced the case, saying that the project is intended to be located on what is now 4 lots that were divided in 2016 but will now be merged. Market rate elderly housing is limited to this area (Map 33), and therefore there are not many lots that are eligible for this use. He added that he felt the project is well suited both to the overlay district and the Rural Residential zoning, where facilities and services for the residents are available.

Mr. Bruton said that the only variance needed is for the lack of 2 acres to meet the minimum requirement. He pointed out that of the roughly 18 acres of land available, 17 acres are uplands;

if they had the full 20 acres it would be possible that more than 2 acres would be unusable. He said that he felt asking for the full 20 acres in this case would represent an unnecessary hardship to the applicant.

Ms. Alessio asked how much of the parcel is needed for the project. Mr. Gier said that the building site would cover less than half of the site, and that 3% is required to be open space. Proposed are eight buildings with four units in each building.

Mr. Bruton then read from the application to address the five criteria, in support of his opinion that the project would pass all five.

Public Comment:

Resident Arthur Crochetiere asked to see the layout of the buildings and viewed the sketch provided by Mr. Gier.

The Board then discussed the merits of the proposed project. It was agreed that the usage is what the zone was meant for and that the buildable area and density are more critical than the acreage. Mr. Hart asked if the units would be rentals or condominium units, and was told this was not yet decided, but that in either case would be limited to ages 55 and over.

With no further questions of the Board or public, the Board voted on the 5 criteria:

1. Would there be a decrease in the value of the surrounding properties? No: 5; Passes
2. Granting the variance would not be contrary to public interest: Yes: 5; Passes
3. Denial of the variance would result in unnecessary hardship to the applicant: Yes: 5; Passes
4. By granting the variance would substantial justice be done? Yes: 5; Passes
5. Would the use be contrary to the spirit and intent of the ordinance? No: 5; Passes

MOTION: To grant a variance to the terms of Article 208, Section 5(B) (1)(b) of the Town of Kingston Zoning Ordinance to permit construction of Market Rate Age Restricted Housing on less than 20 acres located on Map 33, Lots 21, 21-3, 21-4 and 21-5. Motion made by Mr. Greenbaum, seconded by Mr. Johnson, vote unanimously in favor.

Other Business:

The Chairwoman brought to the Board's attention that the Planning Board had raised their application filing fees.

MOTION: To increase the application filing fees for the Zoning Board of Adjustment to be consistent with Planning Board fees. Motion made by Mr. Hart, seconded by Mr. Coffin, vote unanimously in favor.

MOTION: To adjourn at 8:40 PM. Motion by Mr. Greenbaum, seconded by Mr. Hart; all in favor.

Respectfully submitted,

Susan Ayer