

**TOWN OF KINGSTON
ZONING BOARD OF ADJUSTMENT
PUBLIC MEETING
FEBRUARY 8, 2024**

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

Also present: Robin Carter, Land Use Admin.

Mr. Coffin called the meeting to order at 7:00 PM. A quorum was present at the meeting.

Mr. Coffin introduced the members present and said Kyle Bache would be a voting member tonight, replacing Peter Broderick who has resigned.

BOARD BUSINESS

Approval of Meeting Minutes (December 14, 2023):

MOTION: by Mr. Coffin to accept the minutes with the following changes:

Lines 40 & 41, add a period after setbacks. Remove the words “and most” and replace with “Most of these lake houses were built as summer cottages.”

Lines 54 & 55, change the language after non-conforming to read “lots of record.”

Line 65, add the word “we” after “expanded and”.

Line 177, at the end of the sentence add “if the variance was denied.”

SECOND: by Mr. Tilton

A vote was taken, 4 were in favor, Ms. Kelley abstained, the motion passed (4-0-1).

**Determination of Development of Regional Impact (DRI) (RSA 36:54-36:58) for -
Liberty Common, LLC
#’s 225, 229, 231 RT 125 and 50 Depot Road
Map R29 Lots 2, 4, 6, 10 (“Property”)**

Mr. Coffin mentioned that the application was submitted on January 18, 2024 and there was insufficient time to call a special meeting for DRI determination and still get the notices out that are required by law under NH RSA 36:57 to members that would be affected. The applicant agreed to be a DRI, and notifications were sent out to East Kingston, Newton, and the Rockingham Planning Commission (RPC).

He noted that we did get clarification from the New Hampshire Municipal Association that a ZBA determination of regional impact is based, per RSA’s, on the development as a whole, not just on the requested variances. The RSA also requires that the minutes of this meeting be sent to affected towns and the RPC within five business days of the decision. The Board needs to make a determination of regional impact.

Mr. Coffin announced this was not a hearing and that this is for the determination of DRI made at a meeting. He brought up that there are four lots listed that will be combined together to form this project.

The Board discussed the six factors listed in RSA 36:55:

- I. Relative size or number of dwelling units as compared with existing stock.
- II. Proximity to the borders of a neighboring community.
- III. Transportation networks.
- IV. Anticipated emissions such as light, noise, smoke, odors, or particles.
- V. Proximity to aquifers or surface waters which transcend municipal boundaries.
- VI. Shared facilities such as schools and solid waste disposal facilities.

The Board determined that factors I, II, V, VI did apply to this project, and that factors III and IV had potential impact for regional impact. The Board determined that the Town of East Kingston would be affected by:

- factor I (relative size or number of dwelling units as compared to existing stock).
Board discussion: There are 38 duplex units, 68 apartments within 6 buildings, with an approximate total 255 bedrooms. Board unanimously agreed that the Town of East Kingston would be affected by this factor.
- factor II (proximity).
Board discussion: Mr. Coffin noted that there is approximately 599' between lot 2 and the East Kingston border. Mr. Tilton referred to the RPC (Determining Developments of Regional Impact, How to Make the Call) guidance document and he noted that these are not binding but they give guidance under their first criteria –“The proposed development may significantly affect the economic structure of neighboring communities by: d. resulting in the construction of 50 or more residential units where any portion of the development is within 1,000 feet of a municipal boundary”. Board unanimously agreed that the Town of East Kingston would be affected by this.
- factor V (proximity to aquifers or surface waters which transcend municipal boundaries).
Board discussion: This is in Zone B aquifer as shown on the Town of Kingston Aquifer Protection Zones Map (2022). Once the aquifer goes down south of Depot Rd. it transitions over to East Kingston (shown on Tax Maps R29, R28 and R27). Board unanimously agreed that the Town of East Kingston would be affected by this.

The Board further determined that the **Town of East Kingston** could **potentially** be impacted by:

- factor III (transportation networks).
Board discussion: The Board talked about whether there may be impact on other towns. Mr. Tilton read from the RPC Statutory Authority (refer to RSA 36:54-58) page, item # “2. Traffic Generation: Will the project generate more than 500 vehicle trips per day?” He commented that it probably would at 255 bedrooms. Mr. Bache mentioned that the plan shows 506 parking spots. The Board unanimously agreed that this could have a potential impact on East Kingston.
- factor IV (emissions).
Board discussion: Mr. Russman brought up that there could be a fair amount of light generated, especially at night, and with this many cars there could be some noise. The Board concluded that there was a potential for impact on East Kingston.

Town of Newton would be affected by:

- factor VI regarding shared school facilities.
Board discussion: Kingston does not share solid waste facility with another town (at least not directly). We do have a two-town school district and Newton is the other town. By adding 255 bedrooms, and it not being an age restricted community, it is likely to have an impact on the school district.

Determination of Regional Impact for Liberty Common, LLC proposed project.

MOTION: by Mr. Coffin that the Liberty Common, LLC project be classified as a Development of Regional Impact for the reasons found by the Board for factors I-VI, affecting the towns of East Kingston and Newton.

SECONDED: by Mr. Russman. There was no further discussion.

A vote was taken. All were in favor. The motion passed unanimously (5-0-0).

Notification of the determination of DRI and a copy of the minutes from this meeting will be sent to East Kingston, Newton and the Rockingham Planning Commission.

Request for continuation – Liberty Common, LLC public hearing.

The applicant has requested a continuation to March 14, 2024 due to not being able to attend tonight due to illness.

MOTION: by Ms. Kelley **to continue this hearing at the applicant’s request to March 14, 2024 at 7 PM at the Kingston Town Hall.**

SECONDED: by Mr. Tilton.

A vote was taken. All were in favor. The motion passed unanimously (5-0-0).

Mr. Coffin explained to the public and the abutters in the audience that abutters will not receive a 2nd abutter notification. An agenda will be posted and that will be the notification.

ZBA application submission deadline change.

It is suggested to change the application submission deadline from the third Wednesday (of the month preceding the hearing date) by noon to the third Thursday by noon. ZBA By-laws, rules and procedures will be updated to reflect this change.

MOTION: by Mr. Coffin **to change the application submission deadline from Wednesday to Thursday.**

SECONDED: by Ms. Kelley

A vote was taken. All were in favor. The motion passed unanimously (5-0-0).

ADJOURNMENT

Meeting adjourned at 7:48 PM.

DRAFT