

**Town of Kingston
Zoning Board of Adjustment
November 10, 2021**

PRESENT: Electra Alessio, Chair; Larry Greenbaum, Vice Chair; Peter Coffin, Richard Johnson, Members; Chuck Hart, Alternate Member
ABSENT: Jacqueline Leone, Member

Chairwoman Alessio called the meeting to order at 7:00 PM.

BOARD BUSINESS

Approval of Meeting Minutes:

MOTION: by Mr. Coffin to approve the minutes of October 14, 2021, as written.

SECOND: by Mr. Greenbaum

In favor: Alessio, Greenbaum, Coffin, Hart, Johnson; Motion passes.

PUBLIC HEARINGS

7:05 p.m.

Matthew Francis
10 Independence Ave.
Derry, NH 03038

IN RE: 9 Main Street
Kingston, NH 03848
Tax Map R-21, Lot 10

This is a public hearing whereby the applicant seeks a Variance to the terms of Article 104, Section 104.4, of the Town of Kingston Zoning Ordinance, and asks that terms be waived to allow permitted uses of the property to include a garage door company and self - storage units which are now not permitted.

Present to speak on the application were the applicant, Matthew Francis, and Alison Milioto. (Property owner George Korn had submitted a letter of authorization.) Mr. Francis explained that they have run the garage door company, Aloha Overhead Doors, from their home in Derry for 13 years, but have outgrown the large garage they have been operating out of, especially as they need to keep more inventory due to supply chain issues. He said that property is scarce and expensive right now. He said the property at 9 Main Street is more space than they need, so they would like to offset the cost by using some of the extra space for storage rental. Mr. Francis said that the former bus garage has large open bays, and to which he would add partitions and doors. The door company will be housed in the 3-bay main building, and the storage area will be in the extra bays.

Chairwoman Alessio asked if they planned to live on the property; the answer was no. Asked about the trailer on the property, Mr. Francis said that he is trying to negotiate that to be sold; he said it's an eyesore and he is looking into the cost of moving it. Mr.

Hart and Mr. Coffin clarified that neither of the uses requested is listed as permitted in the Rural Residential zone.

Mr. Greenbaum asked if there is sufficient power in the building; Mr. Francis said there are lights in every bay. After further questions regarding the trailer and also about the building density limitations of the lot, it was agreed that these matters will be covered by the Planning Board.

Questions/Comments of Abutters

Robin Thompson, 13 Main Street, said she is not clear on the self-storage plan; she said that there are 22 bays and there is access all the way around the building. She said that if there is to be access from the back, it will be within view of her yard. She wanted to know if the storage will be for the company itself or rented to others. She also asked about lighting, as she enjoys the stars, and also expressed concern about additional traffic in a residential neighborhood where they already have the police department and a trucking company.

Comparisons were made between the bus company that was there previously and the proposed storage facility. Mr. Greenbaum asked how far the building is from Ms. Thompson's property line. Mr. Coffin looked at the existing site plan, which shows the set back at 50.4 feet. Ms. Thompson said that in the summer the brush and trees form a screen, but in the winter she can see right through.

Mr. Francis said that the intention for the property is not to add more access points, but to clean it up and leave access up front. With regard to lighting, he commented on the lighting currently in place, which may be what was allowable for the last business; he said they will add security lighting, but not at the back, and not halogen lighting that can be seen from far away. Ms. Milioto said she is from a small town and appreciates the night sky as well, but that those renting the spaces need to know the building is secure. She said being across from the police station will add a level of security. She said that storage in the main building will be for their own business, so for their own security concerns, there will be a full application process for anyone renting the bays. Mr. Francis added that there is a gate and access will only be within certain hours.

Garrison Todd, 17 Main Street, asked to clarify that there would only be 22 bays. Ms. Milioto said there would be whatever is there now, 22 or 23. Work would be done to individualize them, but more will not be added. Asked if more structures would be added, she said no, and it was pointed out that the 2500 square foot limit for the property has already been exceeded. Mr. Todd was also concerned about light pollution and extra traffic, saying that it is already a dangerous intersection.

Mr. Francis described where lighting would be installed. He also said that the rest of the property will not be suitable to be built on, and they don't need it. Ms. Milioto said that they currently have four employees and four work trucks, and while they hope to expand, they will generally come in the morning and leave in the evening; no customers will come to the property.

Mr. Todd said he was concerned about impact on the aquifer and what sort of things will be stored, noting that there have been violations in the past. Chairwoman Alessio said she recognizes that issue exists town-wide, and it is one reason the Town needs a Code Enforcement Officer.

Mr. Francis said they will likely need to be on the premises until 6 or 7 PM. He said he would hope to expand, but they care about keeping things nice. Ms. Milioto said that the type of storage client they have in mind would be a landscaping company storing their equipment for the winter. Mr. Francis said that nothing should be visible outside the building.

Mr. Todd went on to say his biggest concern is about a business going in that might expand and change the character of the neighborhood. He said he felt that would affect the resale values of the residences. He said there are a lot of unanswered questions about what will happen in the future. Ms. Milioto said that this property is basically an industrial building in a rural setting, that is not suitable for the allowed uses, such as a doctor's office. She said it is basically an industrial garage, and would be well suited for an automotive garage, but they are not that, and they would be a good option for the site. She said they run a clean business, that they have been operating out of their home; she said the neighbors should look at their website, they have good reviews.

Mr. Todd said he felt the business will violate the intent of the ordinance.

Susan Gervasi, 15 Main Street, said that she shares the concern about lighting, and is worried about lighting spoiling the aesthetics of her yard. She then said that her biggest concern is that a traffic light is needed at the intersection with Route 111, and that adding a business will cause more accidents.

Mr. Hart asked what uses are listed as permitted in this zone. Mr. Coffin read from the ordinance - uses including professional offices, churches, barbers, agriculture and homes are permitted. He said the closest would be "general service and repair shops (not automotive)". Chairwoman Alessio said that the use of the properties in the area has already been changed over the years. She said that Safeway transportation had more traffic than what is proposed here. She said the storage aspect has more impact. There was a question about the property at the end of the road where access to Rte. 125 is blocked off; this property got a variance years ago for an automotive related business, but not repair. It was noted that there will be no repairs on the premises of this business.

Letters from Garrison and Elaine Todd and Dwight Simes were read into the record (attached).

The Board then reviewed the criteria for a variance with regard to this applicant.

Diminution of value of surrounding properties: The Chair said that in over 20 years she has never seen values diminished by a commercial business. Mr. Coffin said that noise pollution or traffic seem to be the issues of concern, but this project seems to be less

impactful, however, he agreed that the storage aspect is possibly of concern due to hours, and that it might be hard to limit them. Ms. Alessio said that the hours will be controlled by the business owner. Mr. Francis said that with his own equipment on the premises, he would not want people on the property at all hours.

Benefit to public interest: Ms. Alessio said that she felt that the bus company was more of a problem in this aspect.

Unnecessary hardship: Mr. Coffin said that the existing building does not fit into permitted uses. Ms. Alessio said that there is little chance of a doctor's office going in there. Ms. Milioto commented that the owner would have a hard time selling it strictly for those uses, which creates a hardship.

Substantial justice: No comments

Contrary to the spirit of the ordinance: There was a brief discussion of the impact on the neighborhood and hours of operation, which will be in the purview of the Planning Board. Chair Alessio said that all the concerns of the neighbors brought up tonight will be discussed at the Planning level. Mr. Coffin said that the restriction of the aquifer protection zone will also be addressed then.

Mr. Coffin also addressed this by saying that small unobtrusive businesses are what are allowed. He said that he thinks this type of service in his opinion would not be contrary to the spirit of the ordinance. Mr. Greenbaum agreed, saying it is not industrial or automotive. Ms. Alessio said it will not be as impactful as the bus garage.

The Board then voted on the five criteria:

Will there be a diminution of value of surrounding properties? No: 5

Granting will be of benefit to Public interest? Yes: 4; No: 1; passes

Will literal enforcement of the ordinance result in unnecessary hardship to the applicant? Yes: 5

Will substantial justice be done if granted? Yes: 5

Will the use contemplated, if granted, be contrary to the spirit of the ordinance? No: 5

MOTION: by Mr. Coffin, to grant the variance to Article 107, Section 107.6, of the Town of Kingston Zoning Ordinance, to permit the terms of Article 104, Section 104.4, of the Town of Kingston Zoning Ordinance, be waived to allow permitted uses of the property to include a garage door company and self - storage units which are now not permitted.

SECOND: Mr. Johnson

In favor: Alessio, Greenbaum, Johnson, Coffin, Hart; Variance granted

The applicant was cautioned to wait 30 days before proceeding in case new information

comes forward for the Board to consider.

Ida and James Ahern
2 Third Street
Kingston, NH 03848

IN RE: Tax Map U-4, Lot 141

This is a public hearing whereby the applicant seeks an Appeal from an Administrative Decision, a Special Exception, and five (5) variances so that the applicants can demolish and rebuild their single family home in approximately the same location. The applicants appeal the Administrative Decision regarding Article 301., Section 301.D, of the Town of Kingston Zoning Ordinance, whereby the Building Inspector denied the building permit. Furthermore, the applicants seek a Special Exception to the terms of Article 205, Section 205.7, of the Town of Kingston Shoreland Protection District Zoning Ordinance, to permit the construction of a 1,540 square foot singly family residence in the same approximate footprint as the existing residence and installing a new septic tank and leach field. In addition, the applicants seek the following variances: Article 202, Section 202.5.B and Article 205, Section 205.4.C to permit construction of a 1,540 square foot single family residence in the same approximate footprint as the existing residence and installing a new septic tank and leach field; Article 301, Section 301.1.D to permit the improvement and/or placement of a single family dwelling structure located within 20 feet from the front property line; and to permit the improvement and/or placement of a staircase located within 20 feet from the front property line; and to permit the improvement and/or placement of a deck located within 20 feet from the front property line.

Chairwoman Alessio read a letter from the applicant's attorney into the record, in which a continuance of the application until December 9 or the next regularly scheduled meeting of the ZBA, was requested for health reasons.

MOTION: by Mr. Greenbaum, to continue the hearing for the application regarding Map U4 Lot 141, to December 9, 2021 at 7:05 PM.

SECOND: by Mr. Hart

All in favor

Ms. Alessio brought the board's attention to a letter from the Building Inspector regarding this application.

Ms. Alessio also informed the Board that she has been contacted from someone that plans to contest the decision made last month to approve the application of Summit Distributing, on the basis that South East Land Trust was not notified. She said she has not received anything in writing to date, but if it is received, a determination will be made at the December meeting on whether the case needs to be reheard.

MOTION by Mr. Hart to adjourn

SECOND by Mr. Greenbaum
Meeting adjourned at 8:42 PM.

Respectfully submitted,
Susan Ayer, Administrative Assistant

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