

Kennebunkport Zoning Board of Appeals
32 North Street, Village Fire Station
July 29, 2019 @ 7:00 P.M.

A meeting of the Kennebunkport Zoning Board of Appeals was held on Monday, July 29th, 2019. The meeting convened at 7:00 p.m. in the North Street Fire Station.

Members Present: Mr. Paul Cadigan (Chair), April Dufoe, James Fitzgerald, Kevin McDonnell, Karen Schlegel
Others Present: Matt Philbrick, Asst. Code Enforcement Officer, Sheila Matthews-Bull Board of Selectmen Representative

1. Attendance

Mr. Cadigan performed a roll call and confirmed a quorum.

2. Approval of minutes from March 25, 2019 meeting.

There were no minutes to approve at this meeting.

*3. **Nikola Kis d/b/a Port Concierge** - The Applicant is seeking approval for a home occupation, which would involve storing and delivering beach chairs and beach umbrellas to prospective customers in the Kennebunkport/Kennebunk area beaches. The Application is available for review in the Code Enforcement Office at the Kennebunkport Town Hall. The property location is 58 Beachwood Avenue, Tax Map 13, Block 6, Lot 14 in the Farm and Forest Zone.*

Mr. Cadigan introduced the Agenda item and explained the order of conduct for this review.

Mr. Nikola Kis of 58 Beachwood Avenue addressed the Board and gave a brief overview of his Application and a summary of his business plan to provide a service of delivering beach chairs, umbrellas, small tables and coolers to customers at the beaches in Kennebunkport. Mr. Kis also provided a brief demonstration of his website to show how his customers will be able to contact him for this new business.

Mr. Cadigan asked the Board members if they had any questions for the Applicant before opening the Public Hearing portion of the meeting.

Mr. Fitzgerald asked how this new business will impact the property. Mr. Kis replied he will use the basement to store chairs and the parking spot for cars. Right now it is just himself in the business and he is renting the house from Bill Scarborough who has submitted a letter along with his Application, Mr. Kis explained.

Mr. Fitzgerald asked if he does have other people working with him will they be parking and working out of the house as well? Mr. Kis responded he is certain when the business expands he will need more storage space and will have to change to a new location.

Mr. McDonald asked how many employees are there and what is the quantity of items to be stored? Mr. Kis replied it is just himself now so 1 employee and he will start with 10 chairs, 5 umbrellas, 4 tables and coolers right now. Mr. Kis also noted there is a separate entrance to the basement from the back of the house.

Ms. Schlegel noted they did receive a letter of authorization from the landlord but it specifically grants permission for storage of 10 chairs only. Mr. Kis acknowledged Mr. Scarborough's letter does state 10 chairs only and noted his landlord is aware of the nature of the business he is starting.

Ms. Schlegel commented she is concerned where Mr. Kis would be dropping off items at the beach as the Zoning Board of Appeals has no jurisdiction to authorize Mr. Kis to do anything at Goose Rocks Beach. Mr. Kis commented he would be dropping off wherever taxis or Uber drivers would drop off customers at the beach.

Ms. Schlegel also commented that it appears that the Applicant is asked for the Zoning Board's permission and guidance for the beach drop off; however this Board can only grant an authorization for the home occupation. Mr. Cadigan added this Board does not grant any authorization for transportation as it doesn't fall under the umbrella of home occupation.

Ms. Dufoe commented the letter provided from the Applicant's landlord does not give permission to store coolers, umbrellas or tables.

Ms. Dufoe also commented that this business is entirely predicated on another board's permission, without which this home occupation may be unnecessary. Ms. Schlegel commented that this Board is not approving the Applicant's business plan but rather his Home Occupation Application.

Mr. Cadigan explained this Board can only deal with that which is right before the Board and from reading this Application the only thing Mr. Kis are asking for is a home occupation to allow for the storage of the chairs at the property. Mr. Cadigan then asked the Applicant if it was his intention to ask this Board for more than just the storage of the chairs on the property. Mr. Kis responded yes he thought he needed to speak with this Board to gain permission for the beach drop off and pick up as well. Mr. Cadigan explained the Board is restricted as to its authority and is defined by the ordinance's definition of a home occupation. All of the transportation components may not fit into the definition of a home occupation, Mr. Cadigan continued, and asked the Applicant if he understood. Mr. Kis thanked Mr. Cadigan for his explanation stating he understands now.

Mr. Cadigan opened the Public Hearing.

Mr. Calvin Bryant of 64 Beachwood Avenue addressed the Board stating he has no issue with the Applicant having a home occupation at his house.

Ms. Deborah Randall of 63 Beachwood Avenue addressed the Board stating she is concerned with the amount of cars and traffic as there are currently 5 cars in the driveway and is confused how renting 10 chairs is going to be a business.

Mr. Kis commented that right now he has some guests visiting at the house and this is just a temporary location until the business grows and he can invest more money.

Mr. Cadigan asked how many parking spaces are on the property now. Mr. Kis replied it is a small driveway that could fit 4-6 cars. Mr. Cadigan asked how many people live in the house now. Mr. Kis replied there are 3 people living there with 2 cars total.

There were no further questions from the audience in attendance. Mr. Cadigan closed the Public Hearing.

Mr. Cadigan instructed the Board members to look at the Application and what the request is in order to separate out that which has been discussed as a greater business plan and that which is placed before this Board this evening, which is the storage of chairs as a home occupation.

The Board members had a lengthy discussion on the discrepancy between the Applicants statement that he intends to store chairs, umbrellas, tables, and coolers and the landlord's authorization letter that states only 10 chairs are to be stored.

Ms. Dufoe questioned whether sufficient evidence has been provided to satisfy the requirement that the Applicant has the right, title or interest in the property to conduct a home occupation. Mr. Cadigan argued the right, title and interest could be satisfied with a copy of the lease if the Applicant could provide that.

The Board members and Ms. Matthews-Bull had a detailed discussion on the impending issues currently being raised at the beach regarding commercial business being conducted on public streets.

After a lengthy discussion with the Board members, the Assistant Code Enforcement Officer and the Applicant, Mr. Kis asked the Board for the opportunity to make some adjustments to his Application and return to the Board at a future meeting.

Mr. Fitzgerald made a motion to table the Application and continue the meeting to allow for an amended Application to be submitted to the town offices. Ms. Schlegel seconded the motion and the vote was unanimous.

Adjournment: A motion was made to adjourn, it was seconded and the vote was unanimous.

Submitted by: Patricia Saunders, Recording Secretary