

Kennebunkport Zoning Board of Appeals
32 North Street, Village Fire Station
September 3, 2019 @ 7:00 P.M.

A meeting of the Kennebunkport Zoning Board of Appeals was held on Tuesday, September 3rd, 2019. The meeting convened at 7:00 p.m. in the North Street Fire Station.

Members Present: Mr. Paul Cadigan (Chair), April Dufoe, Wayne Fessenden, Kevin McDonnell, Karen Schlegel
Others Present: Matt Philbrick, Asst. CEO, Sheila Matthews-Bull Board of Selectmen Representative

1. Attendance

Mr. Cadigan performed a roll call and confirmed a quorum for tonight's meeting.

2. Approval of minutes from the March 25, 2019 and the July 29, 2019 meetings.

Mr. Cadigan, Mr. Fessenden, Ms. Dufoe, Mr. Fitzgerald and Mr. McDonnell are eligible to vote on the March 25th, 2019 meeting minutes. Mr. Cadigan noted a typo to be corrected in the attendance section of the March 25th, 2019 meeting minutes. Mr. McDonnell made a motion to approve the amended minutes of the March 25th, 2019 Zoning Board of Appeals meeting. Ms. Schlegel seconded the motion and the vote was unanimous amongst the eligible voters.

Mr. Cadigan, Ms. Dufoe, Mr. Fitzgerald, Mr. McDonnell and Ms. Schlegel are eligible to vote on the July 29, 2019 meeting minutes. Ms. Dufoe made a motion to approve the minutes from the July 29, 2019 Zoning Board of Appeals meeting. Ms. Schlegel seconded the motion and the vote was unanimous.

*3. **Nikola Kis d/b/a Port Concierge** – Continued Review – 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 noting Mr. Fessenden was not present at the last meeting and will not be voting on this Application.

Mr. Nikola Kis addressed the Board and gave a brief summary of his updated Application noting he will utilize 1 of the 4 parking spaces for his car for business and occupy 25% of the basement for storage. There will also be no signage for the business on the property.

Due to receipt of new information since the last meeting, Mr. Cadigan opened up the Public Hearing in order to allow any abutters to address the Board or ask questions.

Mr. Harrison Small addressed the Board to ask if this business is a permitted use in the Farm and Forest Zone. Mr. Cadigan explained the Application as discussed at the last hearing is limited to storing items in the basement and this Board does not have any jurisdiction of any activities when Mr. Kis leaves the house so the driving, picking up and delivering is outside the scope of this Board. Ms. Dufoe added a Home Occupation is a conditional use in the Farm and Forest Zone.

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

For the record, Mr. Cadigan noted the Application has narrowed its proposed use to encompass the basement used as storage and has provided proof of interest in the property by submitting a copy of his lease. The Applicant also

submitted a new letter from his landlord broadening his permission for Mr. Kis to store beach items in the basement.

Mr. Cadigan asked if the Board had any questions for the Applicant.

Mr. Fessenden questioned whether using a basement as a storage facility is a permitted use. The Board members had a brief discussion on this issue and concluded this Application is not for a storage facility but for permission to store items as a component of his greater business.

Mr. McDonnell offered his opinion that he believes this Application meets all of the requirements of a home occupation.

Ms. Dufoe commented the changes Mr. Kis made to his Application were what the Board had requested at the last meeting and cautioned the Applicant to be cognizant that this Board is only allowed to grant permission for what happens on the property and has no jurisdiction for granting permission to deliver to the beach or any place else in town.

Mr. Cadigan and Ms. Schlegel agreed with Ms. Dufoe's comments.

For the record, Mr. Cadigan acknowledged Mr. Kis' agreement he is aware the Board cannot grant him permission to park or deliver at Goose Rocks Beach or any other beach or property in town.

Mr. Cadigan asked the Assistant Code Enforcement Officer if he has any issues or comments regarding the Application. Mr. Philbrick responded in his opinion the Applicant has met the criteria for a home occupation and the Applicant understands this hearing is just for the home occupation and not for any other activity in a public Right of Way.

Mr. Cadigan quickly read through Article 7.6.A.1. through 3 which list the requirements of a Home Occupation and the Board members unanimously agreed this Application met all of those requirements.

Mr. Cadigan then read through the conditions of a Home Occupation as listed in Article 7.6.B.1 through 9. All of the Board members agreed the Applicant has satisfied all the applicable conditions as read by Mr. Cadigan.

Ms. Schlegel made a motion to approve the revised Application as presented as a home occupation for the storage of beach items only. Mr. McDonnell seconded the motion. Ms. Dufoe amended Ms. Schlegel's motion to state this approval for the storage of beach equipment only and is not granting permission for activities to be carried on off the property. Mr. McDonnell seconded the amended motion. The Board voted 4-0 in favor of the motion with Mr. Fessenden abstaining from voting. This Application has been approved.

Other business:

The Board members had a discussion on the scheduling of the next two Zoning Board of Appeals meetings in the upcoming weeks. The meeting for a Residential Rental Accommodation Application is scheduled for Monday September 16th and the meeting for the Administrative Appeal is scheduled for September 24th, 2019. Mr. Cadigan confirmed a quorum can be in attendance for both meeting dates.

The Board members then discussed the election of Board officers.

Ms. Schlegel made a motion to nominate Mr. Cadigan as Chairman of the Zoning Board of Appeals. Mr. Fessenden seconded the motion. Mr. Cadigan recused himself from voting. The motion passed with a vote of 4-0.

Mr. Cadigan made a motion to nominate Mr. Fessenden as Vice-Chair of the Zoning Board of Appeals. Mr. McDonnell seconded the motion. Mr. Fessenden abstained from voting. The motion passed with a vote of 4-0.

Mr. Fessenden nominated Mr. Fitzgerald as Secretary of the Zoning Board of Appeals. There was no second to the nomination.

Mr. Cadigan made a motion to nominate Ms. Schlegel as Secretary of the Zoning Board of Appeals. Mr. McDonnell seconded the motion. Ms. Schlegel abstained from voting. The motion passed with a vote of 4-0.

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

Submitted by: Patricia Saunders, Recording Secretary