

CITY OF FRAMINGHAM

ZONING BOARD OF APPEALS

150 Concord Street B2
Framingham, MA 01702

CITY OF FRAMINGHAM
CITY CLERK'S OFFICE

BOARD OF APPEALS CASE NO. 17-54 2018 JAN 23 P 4: 30

PETITION OF KENDALL STREET REALTY TRUST

DATE OF DECISION: JANUARY 9, 2018

1. Application

This document is the DECISION of the Framingham Zoning Board of Appeals (hereinafter the Board) on the Application of KENDALL STREET REALTY TRUST (hereinafter the Applicant), for property located at 110 KENDALL AVENUE, 92 KENDALL AVENUE, and KENDALL LANE RR. This Decision is in response to a Petition for Special Permits for eight residential duplexes as required by the Zoning By-Law (hereinafter the Application).

2. Property Owner/Applicant

Kendall Street Realty Trust
PO Box 218
Sherborn, MA 01770

3. Location

Property is located at 110 Kendall Avenue, 92 Kendall Avenue, and Kendall Lane RR and identified by Assessors' Parcel IDs 137-54-2090-000/137-54-0190-000/137-54-1106-000 (hereinafter the Site).

4. Board Action

After due consideration of the Application, the record of proceedings, and based upon the findings set forth below, on January 9, 2018 the Board voted to GRANT the SPECIAL PERMITS by a unanimous vote in favor of the petition of three (3) members sitting on the Application. The record of the vote is stated as follows:

PHILIP R. OTTAVIANI, JR.	YES
SUSAN S. CRAIGHEAD	YES
STEPHEN MELTZER	YES

5. Proceedings

The Application was received by the Board on November 30, 2017 pursuant to MGL, Ch. 40A, §9, and the Framingham Zoning By-Law. The Application was considered by the Board at a duly noticed public hearing of the Board on January 9, 2018 at 7:00 P.M. in the Ablondi Room of the Memorial Building. Board Members Philip R. Ottaviani, Jr., Susan S. Craighead, Stephen Meltzer, and Alternates Edward "Ted" Cosgrove, Joseph Norton, and Rick McKenna were present throughout the proceedings. Due to potential imminent changes to the makeup of the Board, Mr. Ottaviani appointed Mr. Cosgrove, Mr. Norton, and Mr. McKenna as alternates. The minutes of the public hearing and submissions on which this Decision is based, which together with this Decision constitute the record of the proceedings, may be referred to in the Office of the Zoning Board of Appeals at the Memorial Building.

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The Applicant's attorney, Mr. George Connors was present with Mr. Pat Teti, the Applicant's husband. Mr. Connors explained, the property had been subdivided into eight lots and the proposal to construct eight duplex structures. He stated, the area was surrounded by multifamily units, a storm water system for 8 duplexes had been designed for the site, two units will be at an affordable rate, the road is private, and 24-feet wide with a connecting sidewalk from the private street to Kendall Avenue.

Ms. Hillary O'Rourke (109 Kendall Ave.) voiced concern regarding the Applicant's status with the Conservation Commission, proximity of the proposal to the swamp and possible vernal pool, and the character of the neighborhood.

Mr. Connors clarified that the proposal was still before the Conservation Commission. He stated, lots 5, 6, 7, and 8 were within Conservation jurisdiction. There would be eight different architectural drawings and floor plans prepared for each dwelling due to the uniqueness of each lot. Mr. Cosgrove suggested the units be mixed to include single family dwellings to maintain the neighborhood's character. Mr. Meltzer voiced concern regarding approval prior to reviewing elevations and design. Ms. Craighead added that after Conservation Commission review, the plans could change dramatically. Mr. Teti responded, it would be unfeasible to spend roughly \$80,000 to produce architectural renderings if it were not yet determined whether or not duplexes would be allowed. The uniqueness of each lot makes it difficult to produce renderings prior to approval from the ZBA.

Ms. Craighead suggested, and the Board agreed, to approve the application for eight duplexes with conditions that the bedrooms are a mixture of two and three, sufficient parking be provided, a general footprint match the concepts submitted to the board, and that final administrative approval be received by the ZBA prior to obtaining building permits.

6. Exhibits

Submitted for the Board's deliberation were the following exhibits:

- 6.1. Applications filed with the Building Official for permits to construct eight duplexes on the premises dated November 28, 2017.
- 6.2. Application for Hearing before the Zoning Board of Appeals filed with the Town Clerk on December 1, 2017.
- 6.3. Memorandum prepared by Attorney George F. Connors submitted with the application, November 30, 2017.
- 6.4. Filing fee in the amount of \$300.00.
- 6.5. Conservation Commission comments dated January 9, 2018.
- 6.6. Planning Board decision filed with the Town Clerk, July 14, 2017.
- 6.7. Conceptual images (two) entitled "Concept" submitted with application, November 30, 2017.
- 6.8. Plan set entitled "Definitive Subdivision Kendall corner Subdivision Framingham, MA" including Index Sheet/Locus Plan (1/2), Plan of Land (2/2), Existing Conditions Plan (1/7),

Topography Plan (2/7), Utility & Drainage Plan (3/7), Erosion Control Plan (4/7), Construction Details (5/7), Construction Details (6/7), and Construction Details (7/7) and prepared by Connorstone Engineering Inc., 10 Southwest Cutoff, Suite 7, Northborough, MA 01532, and dated December 16, 2016.

6.9. Site plan (in color) entitled "Definitive Plan", prepared by Connorstone Engineering Inc., 10 Southwest Cutoff, Suite 7, Northborough, MA 01532, and dated December 16, 2016.

Exhibits 6.8 and 6.9 shall be hereinafter referred to as the "Plans".

7. Findings and Conclusions

Based upon its review of the Application, exhibits, and the public hearing thereon, the Board makes the following findings and conclusions:

7.1. The property is located within the General Residence (G) zoning district.

7.2. On November 28, 2017, the Building Official denied the eight Applications for permits to construct duplexes, one on each of eight lots, under Section II.B.1.B of the Zoning By-Law.

7.3. On December 1, 2017, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining Special Permits pursuant to the Zoning By-Law.

7.4. Notice of the public hearing was duly published in "THE METROWEST DAILY NEWS" on December 25, 2017 and January 1, 2018 and mailed to all parties-in-interest, as defined by G.L. c. 40A, §11.

7.5. The Applicant is before the Board for Special Permits for eight duplexes on the premises.

7.6. Subject to the conditions stated in this Decision, the Board finds that the following conditions of approval of a Special Permit have been met:

7.6.1. The specific site is an appropriate one for such a use or structure. *The property is located in the General Residence zoning district which allows duplexes by Special Permit. Additionally, other duplexes exist in the neighborhood. There is a need for additional housing at affordable prices.*

7.6.2. Adequate and appropriate facilities will be provided for the proper operation of the proposed use, including adequate off-street parking. *Sufficient parking will be provided for each two-unit structure via two 1-car garages and drive ways.*

7.6.3. The use or structure as developed will not create a hazard to abutters, vehicles, or pedestrians. *The proposed development has been permitted by the Planning Board. 7 of the 8 units will have frontage on a new street off of Kendall Avenue. The development will not have a substantial impact on traffic.*

7.6.4. The use or structure is consistent with the Intent of the district in which the use is proposed, and with the Purpose and Intent of this By-Law. *The property is located in the General Residence zoning district which allows duplexes through a Special Permit.*

7.6.5. All municipal services necessary to meet the needs of the proposed use must be adequate and sufficient. *All services necessary to meet the needs of the proposed use are adequate and sufficient.*

7.7. The Board grants this Special Permit subject to the following conditions:

7.7.1. The proposed duplexes shall be developed substantially as shown on the Plans. Final building footprints shall be in keeping with the approved Plans as much as possible.

7.7.2. Floor plans and elevation drawings shall be submitted and approved by the ZBA prior to obtaining a building permit.

7.7.3. The eight duplexes shall be a mixture of two- and three-bedroom units. Sufficient parking will be provided for each unit.

7.8. This Decision applies only to the requested Special Permits. Other approvals or permits required by the By-Law, other governmental boards, agencies or bodies having jurisdiction, shall not be assumed or implied by this Decision.

7.9. If the rights authorized by these Special Permits are not exercised within two years of the date of filing of the Decision with the Town Clerk, said Special Permits shall lapse; provided, however, that the Board in its discretion and upon written application by the Applicant may extend the time for exercise of such rights for a period not to exceed six (6) months. A request to extend said time limits shall be made in writing to the Board at least 30 days prior to said expiration date. The Board herewith reserves its rights and powers to grant or deny such extension, and to require any appropriate changes to this approval. If the Board does not grant such an extension within thirty days of the date of application therefore, and upon the expiration of the original two-year period, such rights may be reestablished only after notice and a new hearing pursuant to MGL, Ch. 40A, §9.

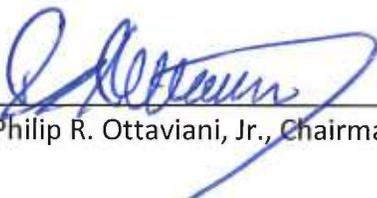
7.10. This Decision shall be recorded at (as appropriate) the Middlesex South District Registry of Deeds or District of the Land Court prior to the issuance of a Building Permit. A copy of the recorded or filed Decision certified by the Registry, and notification by the owner of the recording, including recording information, shall be furnished to the Board and the Building Official.

7.11. The terms, conditions and provisions of this Decision shall run with the land and shall be binding upon the Applicant, its successors in interest and assigns, and shall be enforceable by the Town of Framingham.

8. Appeals

Appeals, if any, shall be made pursuant to MGL, Ch. 40A, §17 and shall be filed within twenty (20) days after the date of filing this Decision with the Town Clerk.

ZONING BOARD OF APPEALS

By: 
Philip R. Ottaviani, Jr., Chairman

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