

**KENSINGTON MUNICIPAL ADVISORY COUNCIL
REGULAR MEETING MINUTES
CONFERENCE ROOM, COMMUNITY CENTER
59 ARLINGTON AVE.**

**TUESDAY, July 29, 2008
7:00 PM**

1. Roll Call – Patrick Tahara (Chair), Pamela Brown, Chris Brydon, and Gordon Becker were present.
2. Approval of Minutes of June 24, 2008 – There were no comments, but the minutes could not be approved because there were not enough KMAC members present at that meeting that could vote to approve them.
3. Citizens' Comments – no comments.
4. Consent Items – no consent items.
5. **19 Lenox (DP 08-3028)** Development Plan review for a new addition exceeding the gross floor area for the parcel including design review for an existing deck located in the rear yard. A variance for a 1-foot side yard and a 2-foot rear yard and variance for a 7- foot fence on rear yard property line is requested. Construction completed without permits.

Andrew Lojo, the owner of the house, spoke on behalf of his application, construction for which has been completed in part.

There are two main structures in this application – a patio cover for a side deck and a deck at the rear of the yard. Mr. Lojo was replacing a cover for a side yard patio structure that he moved closer to the fence line, triggering a variance. He also constructed a deck at the rear of his property that would allow him a view of the bay. In several locations, this deck was built into the setback also triggering a variance.

Mr. Lojo received a stop notice on his construction, just before he completed the rear yard deck. He has spoken with several of his neighbors, however, next to the side patio, that house was for sale during this construction period and at that time he hadn't spoken with the new owner about this construction.

Dwight Hendrix, one of his neighbors to the south, did not have any issues regarding privacy or light. He is in favor of the project.

Jean Leng, one of his neighbors to the rear of Mr. Lojo's property, stated the deck has been in use for the year. She expressed concerns that when they go up to their house, they can see and hear everyone on the deck.

David Kwett, who lives with Ms. Leng at the rear of Mr. Lojo's property, also expressed privacy concerns regarding the placement of the deck. He would like the deck to be lower and further away of the fence. He is expressed concerns about impact work will have on his garden that is near the fence.

Pamela Alexander is the new next door neighbor (corner of Beverly and Lenox) and expressed concerns about the noise coming in from the deck. She is opposed to having a variance, in particular because the area is overbuilt.

Mr. Lojo has agreed that any foundation and/or fence work would be on his property line; the fence which would be reconstructed at the same time would be made of an agreeable material with the neighbors at the rear.

KMAC members expressed concerns that this application might not meet the conditions of a variance, particularly they thought that it would be granting a special privilege because they were not aware of any other properties in the area that similar deck construction within the setbacks. The variance issues were of heightened importance hearing the concerns from the neighbors about the impact the rear deck had on their privacy.

Mr. Lojo requested a continuance with the intent to communicate with the neighbors and address variance concerns.

6. **264 Arlington (VR08-1033)** Development Plan review to request for a 0' setback and building height of 16'-10" where 15' is max height, to rebuild a garage roof and door to an existing detached accessory building.

Linda Lipscomb spoke on behalf of the owners. As Ms. Lipscomb explained, the house and garage were constructed in 1912. The roof and garage door were in need of repair and the construction is on the same footprint. The resulting construction would make the garage more useful.

KMAC members supported the idea of reconstructing the garage to make it usable, their only concern related to the proposed height of the garage is 16' 10" and the need for a variance on that specific aspect of the project; the county code is 15' height. KMAC wanted to seek some information to determine if the construction at that height is different from the original construction. If the applicant could provide any information to show the original garage height was 16' 10" and that they were just replacing what existed before, then KMAC was ok with approving a variance. Otherwise, as with the application above, it would see it wouldn't warrant a variance because it would be a grant of special privilege.

KMAC made a motion to continue, all in favor.

7. **7 Edgcroft (LP08-02029) Land** Use plan review for home occupation of an existing contractor's office.

Steven West, the applicant, recently remodeled the garage and was asked by the county to assure this space would not be used as an office. Over the last 11 years, Mr. West has used a room in his house to support his construction business, primarily working on plans, bidding plans, and subcontractors pick up plans at the property.

The county asked him to issue a public notice on where his office is located and that is why this home occupancy permit is before KMAC.

During community comments, Chris Hall indicated did not have an issue with him working in his home and stated that more often Mr. West appears to be working off-site.

Steve Smith lives on Arlington. He was concerned that recently there has been an abundant increase in noise in the neighborhood. On that Saturday, he was working in his backyard and there was a lot of construction going on in Mr. West's house. He had concerns that these substantial changes in the garage would be used for other purposes. He wanted to ensure there would be no movement of the business in the garage, that it would remain in the house.

Joe Garrett shares a property line, next to the driveway between the home. He indicated that based on his observations, Mr. West's business has grown substantially. He is now doing major projects and with that noise has grown and has affected them dramatically. These impacts have

grown, as the business has grown. Mr. Garrett walked through the conditions of approval for this home occupancy permit, particularly section 2 related to no vehicular traffic in excess of single family residential use – 48 cars a year to pick up plans. He was concerned about the amount of traffic associated with the business being in his home. Within section 4, related to having no storage of construction materials on the property, Mr. Garrett showed a photo of construction materials laying on the driveway between their homes. He said Mr. West's truck sits on the driveway with construction materials included in the truck. He wanted some assurance that debris and other materials would not be brought onto the property or into the neighborhood. Related to section 5, exterior signs, he wanted some assurance a sign would not be posted included in the property. As for section 6, related to noise, he had great concerns about Mr. West's use of the telephone for business purposes. He said he's heard the use of profanity when speaking to other workers and these on-going code violations have affected enjoyment of the house. Mr. Garrett said he does not want there to be an enforcement issue but there must be compliance with it.

Jane Kaplan lives at 8 Edgecroft. She said she believes that each neighbor has a different experience, particularly in relationship with the driveway. She said the level of noise is too much and she has concerns over the usage of the garage. She is also concerned for Mr. West's neighbors, Joe and John, because of their close proximity to driveway.

Marianne Frey said she doesn't have concerns related to noise and believes the garage being reconstructed will be an enhancement to the neighborhood. They don't care if there is a business next door and they believe the majority of the noise the neighbors have experienced is related to the recent construction project.

KMAC unanimously recommended the land use permit be granted such that it meets the requirements for land use findings as proposed, that it will not create a nuisance or enforcement problem.

8. Kensington Improvement Club (KIC) and Kensington Property Owners Association (KPOA) review discussion.

Every year KMAC has contacted both organizations to describe what has happened during the year and request funds for our volunteer board. In the past, both KIC and KPOA have provided financial support. This year, KPOA has declined. Mr. Tahara was going to reach out to both organizations and opened it up to KMAC members to share any items they wanted discussed with John McKenna (KIC) and Gail Feldman (KPOA).

9. Information Reports

a) Enforcement Report

10. Adjournment

Motion to adjourn – 9:04pm.