

***DRAFT***

**Kensington Municipal Advisory Council  
Minutes  
Meeting of February 24, 2004**

Council Members present:

Chair: Reyes Barraza

Vice Chair: Jim Carman

Secretary: Richard Karlsson

Council Member: Kay Reed

Council Member: Patrick Tahara

1. The meeting commenced at 7:00 p.m. All members were present.
2. The Council approved the minutes of January 27, 2004. The minutes were approved 5-0.
3. There were no citizen comments at the beginning of the meeting.
4. **23 Highgate Ct. (VR031116).** Request for (a) front setback for a new double garage of 10' (20' required), (b) a retaining wall of greater than 3' high within the required setbacks, and (c) request to remove two pine trees and work within the drip line of another pine and two redwood trees.

Vahid Sattary, the owner of the property made the opening presentation. In regard to the variance from the setback, Mr. Sattary indicated that due to the unique characteristics of his property, the steep incline and grade and existing structure of the house and the existing trees, it was impossible to set back the garage within the 20' allowed. He indicated that it was his fear that he would lose the two trees (one redwood and one pine), undermine the foundation of his home, and require a massive and unattractive retaining wall if the garage were required to be moved further back.

Mr. Sattary further indicated that he had made additional changes to be responsive to his neighbors, such as moving the area of the remodeled home to outside of the side-setback, replacing the intended windows with clerestory windows. He noted that the setback that he was now requesting was nearly identical to that of the neighbor to the south, Ms. Drake, and the neighbors to the north, the McGoverns.

He also testified that the existing single carport was in need of repair and did not suit his needs in regard to parking as it held only one car. He also noted that with the change in angle of the two car garage, he would no longer need an easement over his neighbor's, Mr. and Mrs. McGovern's, property.

Mr. Sattary then provided documents relevant to the history of improvements to the property. At one point, with respect to improvements made by the prior owner, one of the requirements was the construction of the subject two car garage. Mr. Sattary was informed of this requirement but requested that it be waived, as he did not then have the finances necessary to build the structure. These changes were approved at that time by KMAC and CDD.

Mr. Sattary concluded by explaining at length why he believed that the planned garage would be a benefit to his neighbors - that there would be greater access to parking as a result of his forfeit of the easement.

Questions by KMAC members followed:

Vice-Chair Carman asked if the property had been surveyed (response: yes), how wide was the road in front of the property (response: 21'), and if he would be planning on leveling the existing ramp area for the carport (response: yes, that is planned).

Member Reed asked questions regarding the stairs within the improvements. Mr. Sattary responded that the area would probably be changed due to the setback of the garage, necessitating a reduction in the size of the patio. The purpose of the stairway was to have access to the front yard. In regard to the potential visual intrusion into the property to the south, Mr. Sattary indicated that he had changed his windows so that the addition would have clerestory windows which would not allow a direct view into the property of Ms. Drake. In response to questions regarding the remaining pine tree, he had consulted an arborist, but had not received a report. In regard to questioning about the width of the garage, he indicated that he had reduced it to the minimum size, per county zoning. If KMAC believed it necessary, he was willing to obtain an additional survey.

Chair Barraza inquired about the existing location of cars and who parked where and the impact of the new structure, to which the applicant responded. Discussions ensued regarding the needed turning radius of automobiles approaching from the south to enter the garage, and the necessity for the retaining wall to the north and south. Mr. Sattary noted that while changes could be made to the northern wall, the southern wall was shared with his neighbor and could not be changed given the location of the garage. In regard to the Chair's inquiry regarding the easement, Mr. Sattary indicated that if the garage were approved, he would no longer need the easement and he was willing to sign a quitclaim to the northern property owner. Finally, in regard to a question regarding the redwood trees, Mr. Sattary indicated that he had no plans to remove them.

Secretary Karlsson inquired if there was any chance that the entry to the garage could be narrowed, so that an on-street parking space would not be lost. Mr. Sattary indicated that this was not possible due to the needed turning radius of automobiles using the garage. Vice-Chair Carman followed up this question and asked if it were narrowed 6', would that allow for the additional space. Mr. Sattary's answer was the

same: the additional space was needed if one were to have enough turning radius to enter the garage.

Member Tahara asked about the design of the concrete area to the north, no longer necessitated due to the termination of the carport and easement, and Mr. Sattary indicated that he was willing to consider any suggestions regarding this area, but it was his and his northern neighbors' desire to make some of this area available for landscaping.

Ms. Pamela Drake, the neighbor to the South at 19 Highgate Ct., then made a presentation in opposition to the project. She indicated that parking was currently "horrendous" and this garage was going to add to the problem. She had requested a similar project from KMAC and this request was denied. It was her view that individuals will park where it suits them and therefore Mr. Sattary's plan was unrealistic. She also noted that the plan had cars parked in front of the Nodelman's property which could result in loss of access to their property as well as create a potentially dangerous condition, as the house was located below the road.

Ms. Drake was also concerned about the accuracy, or lack thereof, as to Mr. Sattary's property survey, as she was required to move the entrance to her home based upon a former survey he did. Mr. Sattary indicated in response that the ambiguity in the survey was to the northern property line, not the south. Finally, Ms. Drake was under the impression that Mr. Sattary needed a side setback but was informed that as the applicant had moved the location of the improvement, a side setback was no longer necessitated.

Seth and Nancy Nodelman then noted that in their view the construction of the garage would result in the loss of three parking spaces and result in cars parking in front of their house, which would likely cause a loss of access to their home. A path through the hedge is the main access to their home and that access would be lost if a car were to be parked directly in front of the opening of the hedge. Parking problems are primarily due, in their opinion, to the tenants living in the rental unit of the applicant and they felt they should park in front of 23 Highgate, rather than in front of their home.

The Nodelmans further questioned the accuracy of Mr. Sattary's comments regarding the necessity for turning radius and believed that the garage would hamper, rather than improve, parking on the street, and they called for a traffic/parking survey prior to approving the applicant's request for a variance. They noted that emergency vehicles would also have difficulty.

Two residents, Mr. McGovern of 25 Highgate Ct., and Ms. Madelyn Chatten of 24 Highgate Ct., appeared and testified that they supported the application, as each believed that Mr. Sattary's application for a garage and variance would improve Highgate Ct.

Vice Chair Carman noted at the end of the testimony that this was a private road and that if the neighbors were going to make meaningful improvements, they were going

to have to get together and come up with a plan for parking: this was not an individual problem but a collective problem of all the residents of Highgate Ct. Secretary Karlsson noted that in his view, one property owner should not bear the brunt of the parking problem and that while the two car garage may cause some problems, it was in keeping with the County's desire to have more off-street parking.

*At the conclusion of the testimony, a motion was made by Vice-Chair Carman, that the variances (a ten foot setback for a double car garage, 2 retaining walls within the setback area, and permission to remove one pine tree and work within the drip lines of the remaining pine trees and redwood trees) was recommended for approval, subject to the conditions:*

- 1. that the easement to the north be abandoned, pursuant to a quitclaim deed granted to the McGoverns, and*
- 2. the area to the north edge of the driveway be moved southward by 3' (to match the garage door of the adjacent property to the north) and eliminate the flared area to the northern side for the garage to allow for an on-street parking space and to landscape the balance of the area north of the current carport, and*
- 3. that a new survey be obtained to clear the ambiguity to the northern property line, and*
- 4. the setback be approved equal to that of the neighbor to the north, at 25 Highgate Ct., but in no event lesser than 10', and*
- 5. an arborist be retained regarding the preservation of the two existing redwood trees, and*
- 6. the apron of the driveway begin at the property line and not encroach into the street, and*
- 7. the approval otherwise be approved pursuant to the plans and specifications dated February 19, 2004.*

*The motion was approved by a vote of 5 to 0.*

**5. 55 Marguerita Rd. (LP042004).** Request for Home Occupancy Use Permit to allow for administrative services for a wholesale import company.

Robert Sullivan, Esq. made the presentation in behalf of the applicant, Lynn Bryant Sullivan. Mr. Sullivan indicated that the business planned was for an import trade business. This business primarily occurred at trade shows in other areas of the country. He stated that the purpose of the use permit was purely administrative, and no inventory would be maintained on the premises but instead in Cleveland, Ohio. There would be no employees or sales agents at the residence, except for occasional visitors. The primary business would be to conduct business via telephone, e-mail and fax. There was some discussion regarding the granting of a use permit and the fact that it flowed with the land as opposed to the applicant's business.

Ms. Helen Neumeyer, a neighbor, appeared and testified that her concern was that the use permit not result in increased parking and congestion.

*Accordingly, a motion was made and approved 5-0 that it be recommended that the use permit be granted on the terms and conditions set forth in the application of the applicant, dated January 20, 2004 and, additionally based upon presentation of Mr. Sullivan, to wit: (1) that the intended use permit was to be limited for the purposes of the administrative aspects of the business and, aside from infrequent and occasional visitors necessary to conduct the administrative aspects of the business; (2) there would be no employees or other frequent business visitors that would result in an appreciable impact upon the neighborhood; (3) the land use permit would be allowed only for the period of the tenure of the present occupant.*

## 6. Procedural Matters

- a. Vice-Chair Carman discussed the proposed noise ordinance and the fact that there would be a Special Meeting with the Kensington Community Services District Board of Directors to discuss the ordinance on March 4, 2004. Some discussion followed regarding aspects of the ordinance. Vice-Chair Carman offered to lead the discussion at the meeting and that proposal met with unanimous approval.
- b. Vice-Chair Carman also discussed on-going enforcement actions and pending applications for variances. Concern was expressed regarding whether some pending applications met applicable community standards and whether KMAC should file for review irrespective of the absence of a request for review by neighbors. The Board voted by a 5-0 vote to provide discretion to the Vice-Chair, James Carman, to file for review on behalf of KMAC if those within the 300' radius otherwise declined to request review and the variance application raised issues of community standards.
- c. Discussion as to the application for a variance for 300 Coventry and a neighbor who indicated that he had not been advised in advance of the hearing in January. Chair Barraza indicated that he had personally notified all neighbors who had expressed a concern regarding the subject application, including those residences on both sides of Valley Rd. and the residence at the N.W. corner of Valley and Coventry roads, regarding the subject application.

7. The meeting adjourned at 9:45 p.m. following a 5-0 vote.

Richard Karlsson  
Secretary