RESOLUTION
Borough of Kinnelon
Planning Board
In the Matter of KMC 17 LLC
Application Number 861
Decided on October 1, 2026
Memorialized on November 5, 2026
Site Plan and Subdivision Approval

WHEREAS, KMC 17 LLC (hereinafter the "Applicant") has made application to the Kinnelon Borough Planning Board for site plan and subdivision approval for property known as Block 45205, Lot 138 as shown on the Tax Map of the Borough of Kinnelon, located at 15-17 Kiel Avenue in the RC Zone (hereinafter the "Subject Property"); and,

WHEREAS, public hearings were held on September 3, 2026 and October 1, 2026, after the Board determined it had jurisdiction; and,

WHEREAS, the Applicant was represented by Edward W. Purcell Esq.

NOW THEREFORE, the Planning Board makes the following findings of fact, based on evidence presented at its public hearing, at which a record was made.

The Applicant is proposing to subdivide the Subject Property into two (2) parcels together with certain site improvements to improve the operation of the subdivided properties. The subject property is an approximately 1.51-acre parcel improved upon with two (2) principal structures across from the Kinnelon Mall driveway on Kiel Avenue. The subject property is located in the Restricted Commercial zone where offices are a principal permitted use. The western structure (17 Kiel Ave) is a two-story commercial building containing four (4) units with various professional and medical offices. The eastern structure (15 Kiel Ave) is also a two-story commercial building containing six (6) units with various professional and medical offices. Other improvements include a parking area, stormwater management system, and a dumpster. The subject property is served by Borough sewer and water.

The following non-conformances exist: (1) Minimum Front Yard Setback (15 Kiel Ave Building) – 48.8 feet exists where a minimum of 50 feet is required; (2) Minimum Front Yard Setback (17 Kiel Ave Building) – 49.1 feet exists to the principal structure where a minimum of 50 feet is required; (3) Minimum Front Yard Setback (17 Kiel Ave Building) – 34.7 feet exists to the front porte-cochere where a minimum of 50 feet is required; (4) Maximum Impervious Coverage – 64.8% exists where a maximum of 20% is permitted; (5) Parking Space Size – typical parking spaces are 9 feet wide x 18 feet deep where a minimum of 10 feet wide x 20 feet deep, a deficit of one (1) foot in width; (6) Access Driveway Width – a minimum of 24 feet of width is required at all driveways with both ingress and egress whereas the westerly most and easterly most driveways are ±20 feet wide and ±18 feet wide, respectively, a shortfall of four (4) feet and six (6) feet; (7) Off-Street Loading – a minimum 10-foot wide by 35-foot loading space is required for each building where none exists; (8) Parking Setback – the parking area must meet the same setbacks as the principal structure for the zone (±50 feet) whereas the existing parking is located within the minimum setback; (9) Sign Location – signs are not permitted beyond the property where the two (2) existing signs are both fully in the right-of-way; (10) Sign Size – the two signs for 15 Kiel Ave and 17 Kiel Ave have an area 96 SF each for a total sign face area of 192 SF where maximum of 50 SF is permitted; and (11) Minimum Driveway Width – 21.8 feet exists along the rear of the property where a minimum of 24 feet is required

The Applicant is proposing to subdivide the subject property into two (2) parcels, the first being proposed Lot 138.01, which will contain the portion of the property now known as #15 Kiel Ave. Lot 138.01 will provide a lot area of 30,627 SF together with a lot frontage of 160.68 feet. All existing non-conformances will remain together with the following bulk variances: (1) Impervious Coverage: 62.3% is proposed where a maximum of 20% is permitted; (2) Side Yard Setback: 6.4

feet is proposed where a minimum of 50 feet is required; (3) Parking Setback – the parking area must meet the same setbacks as the principal structure for the zone (±50 feet) whereas the existing parking is located within the minimum setback; (4) Off-Street Loading – a minimum 10-foot wide by 35-foot loading space is required for each building but none exists; (5) Sign Location – signs are not permitted beyond the property where the existing sign is fully within the right-of-way; (6) Sign Size – both existing sign faces have an area of 96 SF for a total sign face area of 192 SF where maximum of 50 SF is permitted; (7) Minimum Front Yard Setback – 48.8 feet exists where a minimum of 50 feet is required; and (8) Minimum Driveway Width – 21.8 feet exists along the rear of the property where a minimum of 24 feet is required.

The second proposed lot, to be known as Lot 138.02, will contain what is now known as #17 Kiel Ave, having a lot area of 35,337 SF with a lot frontage of 180.19 feet. All existing non-conformances will remain together with the following bulk variances: (1) Impervious Coverage: 66.9% is proposed where a maximum of 20% is permitted; (2) Side Yard Setback: 26.8 feet is proposed where a minimum of 50 feet is required; (3) Parking Setback – the parking area must meet the same setbacks as the principal structure for the zone (±50 feet) whereas the existing parking is located within the minimum setback; (4) Off-Street Loading – a minimum 10-foot wide by 35-foot loading space is required but none exists; (5) Sign Location – signs are not permitted beyond the property where the existing signs is fully within the right-of-way; (6) Sign Size – both existing sign faces have an area of 96 SF for a total sign face area of 192 SF where maximum of 50 SF is permitted; (7) Minimum Front Yard Setback – 49.1 feet exists to the principal structure where a minimum of 50 feet is required; (8) Minimum Front Yard Setback – 34.7 feet exists to the front porte-cochere where a minimum of 50 feet is required; and (9) Minimum Driveway Width – 21.8 feet exists along the rear of the property where a minimum of 24 feet is required.

Testifying before the Board on behalf of the Applicant was Thomas Graham, P.E., who using Exhibit A-1 provided an overview of the existing property together with the proposed subdivision and site plan improvements. Mr. Graham pointed to the red line on Exhibit A-1 as depicting the subdivision line separating the lot being subdivided. There are two (2) professional office buildings that are currently served by three (3) full movement driveways on Kiel Avenue. Mr. Graham anticipates preparation of a stormwater operation and maintenance manual for the separated properties, but first needs to have a video survey of existing infrastructure prepared to better understand how it all functions. As far as parking is concerned, Mr. Graham utilized Exhibit A-2 to confirm that the property is currently overparked by a two to one ratio, so there really is no concerns over parking sufficiency. Reciprocal easements are anticipated to allow shared use of the parking and driveways, as well as to facilitate stormwater operation and maintenance functions.

In response to comments received from the Board during the initial hearing on September 3, 2026 as to taking another look at how the separated sites would utilize the various driveways to Kiel Avenue, the Applicant returned before the Board with an amended application that now included a request for site plan approval. The revised plan set depicts the following site improvements: (1) the westerly most driveway will be expanded from approximately 19 feet to 24 feet to facilitate both ingress and egress (2) the easterly most driveway will be expanded from approximately 8 feet to 24 feet to facilitate both ingress and egress; (3) two trash enclosures atop 6" concrete pads withing fenced enclosure will be constructed on Proposed Lot 138.01 (15 Kiel Ave) in the southeast corner of the parking area around the two (2) existing dumpsters. Two existing parking spaces will be formally eliminated; and (4) two trash enclosures atop 6" concrete pads within a fenced enclosure will be constructed on Proposed Lot 138.02 (17 Kiel Ave) in the southwest corner of the parking

area. Two existing parking spaces will be eliminated, so the parking table was updated to reflect the reduced parking spaces. Further, the revised plan also depicts the location of underground utilities.

Mr. Graham explained that in order to widen the most easterly driveway, the Applicant needs to remove a single 12" (dbh) Cherry Tree. The Applicant stipulated that the Applicant would submit a Tree Removal Permit Application for the proposed tree removal, recognizing that a replacement tree may be required to be installed to compensate for the removal. Mr. Graham also confirmed that all driveways have adequate sight distances to allow for safe vehicular movements. There are no other site improvements proposed.

The Applicant then presented the planning testimony of McKinley Mertz, PP, AICP, who utilized Exhibit A-3 to provide photographic evidence of the relevant portions of the site where variance relief was being sought. Mr. Mertz identified and described the variances triggered by the minor subdivision and explained the reasons the variances could be granted under the c(1) and c(2) variance criteria. Primarily, the pre-existing non-conforming conditions triggering variances satisfied the c(1) criteria, while the "newer variances" triggered by the subdivision itself satisfied the c(2) criteria. Ms. Mertz pointed to the Borough Code, §207-9, which allows one principal structure per lot, as supportive of the proposed subdivision and serving as additional confirmation of the planning benefits associated with the subdivision. Ms. Mertz testified it was her opinion the variances further purpose of planning "g" and did not result in any substantial detriments to the public good nor any substantial impairments to the Borough's zone plan.

The meeting was opened up to the public and there were no members of the public, other than a contract purchaser and his realtor, present expressing an interest in this application.

NOW THEREFORE, the Planning Board makes the following conclusions of law, based on the foregoing findings of fact.

The application before the Board is a request for subdivision approval to subdivide the Subject Property into two (2) parcels, together with site plan approval intended to better facilitate the physical separation and future use of these professional office buildings that will now be situated on their own separate lots, while the benefits associated with the continued sharing driveways, parking lots and stormwater infrastructure would be maintained by way of reciprocal easements going forward.

In reviewing the application, plans and testimony, the Board concludes the Applicant has met the minimum requirements of the Municipal Land Use Law, Case Law and Borough Ordinances to a sufficient degree so as to enable the Board to grant the relief being requested.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board that the application of the KMC 17 LLC for property known as Block 45205, Lot 138 as shown on the Tax Map of the Borough of Kinnelon, located at 15-17 Kiel Avenue in the RC Zone requesting subdivision approval pursuant to N.J.S.A. 40:55D-47 and site plan approval pursuant to N.J.S.A. 40:55D-46.1, and all requested variance relief pursuant to N.J.S.A. 40:55D-70c are granted subject to the following terms and conditions:

1. The subdivision, adjustment of lot lines and site plan improvements for these parcels shall be implemented strictly in accordance with the plan submitted and approved, as revised to reflect the testimony and stipulations provided at the public hearing.
2. The Applicant shall submit a Tree Removal Permit application to facilitate widening of the most easterly driveway.
3. The Applicant shall provide the Borough Engineer with a thorough inspection report documenting both the condition and configuration of the existing detention basin as well as the rest of the stormwater management system on the subject properties,

together with a Stormwater Operation and Maintenance Plan prepared in accordance with the requirements of the NJ BMP and Borough Code §172.

4. Prior to recording minor subdivision deeds, the minor subdivision plans shall be revised as may be recommended by the Kinnelon Planning Board, Board Engineer, Board Attorney, and Borough Surveyor.

5. Payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.

6. Certificate that taxes are paid to date of approval.

7. Morris County Planning Board approval.

8. Subject to all other applicable rules, regulations, ordinances and statutes of the Borough of Kinnelon, County of Morris, State of New Jersey, or any other jurisdiction.

The undersigned secretary certifies the within resolution was adopted by this Board on October 1, 2026 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on November 5, 2026.

Jennifer Hummel

FOR: Mayor Freda, Mr. Schwartz, Mr. Schneider & Mrs. Smialek

AGAINST:

ABSTAIN: Mr. Lockwood

Board Member(s) Eligible to Vote: