

TOWN OF KENT
PLANNING AND ZONING COMMISSION
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AUGUST 11, 2016 REGULAR MEETING MINUTES

The Town of Kent Planning and Zoning Commission held a regular meeting on Thursday, August 11, 2016 at 7:00 p.m. in the Kent Town Hall.

1. CALL TO ORDER

Mr. Johnson called the meeting to order at 7:05 p.m.

2. ROLL CALL AND APPOINTMENT OF ALTERNATES IF REQUIRED

Commissioners Present: John Johnson, Chairman; Adam Manes, Anne McAndrew, Marc Weingarten, Wes Wyrick

Staff Present: Donna Hayes, Land Use Administrator

Mr. Johnson elevated Ms. McAndrew and Mr. Weingarten to voting status.

3. READING AND APPROVAL OF MINUTES:

3.A. Regular Meeting Minutes of July 14, 2016.

Mr. Manes moved to approve the Regular Meeting Minutes of July 14, 2016 as written. Mr. Wyrick seconded and the motion carried unanimously.

Mr. Manes moved to add item 6.B.2. to the agenda. Mr. Wyrick seconded and the motion carried unanimously.

4. PUBLIC COMMUNICATIONS (ORAL):

There were no public communications.

5. OLD BUSINESS:

5.A. **PUBLIC HEARINGS (Possibility of closure, discussion and decision on the following):**

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No action taken.

5.B. DISCUSSION AND POSSIBLE DECISION

5.B.1. Rewrite of Zoning Regulations

Ms. Hayes explained that she had spoken with Mr. Chalder. He told her that he was working on incorporating Attorney Zizka's comments and wanted to know if the Commission would like to meet on August 25th to discuss the changes. After discussion, it was decided that a special meeting would be scheduled for 7:00 p.m. on August 25th.

Ms. Hayes also told the Commission that during her conversation with Mr. Chalder he also asked if the Commission wanted him to include the Incentive Housing Zone regulation in the new regulations. Since the Commission had not received a formal presentation from the Incentive Housing Zone Subcommittee, it was decided that it not be included this go around.

6. NEW BUSINESS:

6.A. PUBLIC HEARINGS (Possibility of closure, discussion and decision on the following):

6.A.1. Application #'s 57-16SP and 58-16C, Mark Abbott, Pinnacle Carpentry, for Jeanne Moutoussamy-Ashe, 11 Longview Road, construction of accessory dwelling unit, pool, deck and related site work, Map 11 Block 40 Lot 79.

Mr. Johnson opened the public hearing at 7:09 p.m. and read the legal notice into the record.

Mr. Mark Abbott and Ms. Christine Harding were present to address the Commission. Ms. Hayes explained that the application was for the construction of an accessory dwelling unit, pool, deck and driveway expansion. The issue is that the owner of the existing main house just converted the basement level into a one-bedroom apartment. By adding the accessory dwelling unit, the property would then contain 3 dwelling units which is not permitted in the Rural District. Mr. Abbott confirmed that but said that the apartment was for the property owner's daughter and that once the accessory dwelling unit is completed the daughter will move into that and the basement apartment would be converted into a library.

Ms. Hayes also told the Commission that there is a Residence Restriction Area on the property and that the new accessory dwelling unit and pool are proposed within that area. While that should not be a concern of the Commission's, Ms. Hayes felt that it should be noted for the file. Mr. Abbott said that they are in the process of getting permission from the homeowner's association to build in that area.

When asked what would happen with the fill from the construction, Mr. Abbott replied that the process from the accessory dwelling unit will be used to slightly adjust the grade around the structure. The process from the pool will be used and any excess would be trucked off site. It was also noted that the size of the pool had been changed to 12' x 30' and 5 deep.

Ms. Hayes asked about lighting. While a majority of the property is located in the Horizonline, this particular construction is outside of the area. Mr. Abbott said that there might be one downward facing light on the house, near the doorway.

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Mr. Manes asked if the structure would be attached to the existing septic. Mr. Abbott replied that it would.

Mr. Wyrick asked if there was anything in the regulations about parking in the front yard. Ms. Hayes said that she believed that was only in the Village Center-Commercial district.

Mr. Wyrick moved to close the public hearing at 7:22 p.m. Mr. Manes seconded and the motion carried unanimously.

Mr. Manes moved to accept waivers to §'s 4.3.8., and 4.3.12. Mr. Weingarten seconded and the motion carried unanimously.

Mr. Manes moved to approve Application #'s 57-16SP and 58-16C, Mark Abbott, Pinnacle Carpentry, for Jeanne Moutoussamy-Ashe, 11 Longview Road, construction of accessory dwelling unit, pool, deck and related site work, Map 11 Block 40 Lot 79 with the condition that the kitchen in the basement of the main house be abandoned before a certificate of zoning compliance is issued for the new accessory dwelling unit. Mr. Weingarten seconded and the motion carried unanimously.

6.B. DISCUSSION AND POSSIBLE DECISION

6.B.1. South Kent Partners, LLC, addition of 2nd apartment, 314 South Kent Road, Map 12 Block 38 Lot 2.

Mr. Albert Gereg, III and his brother David were present to address the Commission. Mr. Albert Gereg explained that since his family had owned the building it always consisted of the South Kent Post Office and one apartment. Prior to that, one of the uses was a general store with some gas pumps out front. His plans for the building are to add a small bump out on the side of the building, raise the roof, take over bedroom #4 on the second floor, add a small kitchenette and install a bathroom. Bedroom #4 is part of the existing apartment at the back of the building. Mr. Gereg also told the Commission that he is in the process of upgrading the septic, a requirement of Torrington Area Health District. The septic tank is sized for a 5 bedroom structure. He told the Commission that the property was listed as a two family structure by the Tax department, but it has always housed the Post Office which has a current lease until 2026.

Mr. Johnson asked Ms. Hayes what her concern was. She replied that the house is located in the rural district and could be considered pre-existing, non-conforming and if another apartment was added, the house would be a multi-unit dwelling which is not allowed in the district. Her concern is that if the Post Office does not renew their lease, that area could be converted into another apartment, making the dwelling a multi-family dwelling which is not allowed in the rural district. Mr. Gereg replied that he would not turn that area into another apartment, but would absorb that space into the existing apartments leaving the structure as a 2-family dwelling.

Mr. Weingarten asked why the Post Office area is considered a dwelling unit when there is no kitchen. Adding the second apartment would make the building a two family dwelling with commercial space. Mr. Gereg commented that it was always a one family house with a commercial space. Mr. Wyrick asked if he was proposing adding another kitchen. Mr. Gereg said that he would. Mr. Manes stated that when all was said and done, there would be two apartments and a post office in this structure. Everyone agreed. Mr. Weingarten asked if the owner could be required to absorb the current Post Office space into the apartment if the Post Office moved out, turning the building into a true two family house.

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Ms. Hayes asked where the bump out would be going. Mr. Gereg replied that it would be on the northerly side of the property, towards Bulls Bridge Road. Ms. Hayes said that on the bottom floor there is currently a kitchen, bathroom, bedroom and back room. Mr. Gereg agreed and said that he would be taking over the space identified as “backroom”. Ms. Hayes continued that the bump out would be attached to the “backroom”, but asked what would happen to “bedroom 4” on the second floor. Mr. Gereg said that he would be taking over that bedroom. The “backroom” will contain his living space and bathroom.

Mr. Manes said that the building is part commercial and part residential and said that he was trying to understand how this building could be characterized. Ms. McAndrew asked what would happen to the Post Office space if it closed. Mr. Manes said that it would have to be attached to one of the other two apartments. Mr. Gereg said that it would be attached to his proposed apartment. Mr. Manes asked if someone could put in a store. Ms. Hayes said that they would have to come in for a change of use and that the only business that could be put in there would be a Post Office. No new business could be added because of the district. Mr. Johnson said that they would have to come in for a change to the regulations.

Mr. Johnson said that his first thought is that it is a reasonable request but he was unsure if they could add another dwelling to a mixed use without being in conflict with the regulations. Ms. Hayes said that is not something she could approve on her own and reminded the Commission of the discussion that was held regarding making that area part of the new Business Hamlet area. Mr. Gereg said that he would rather have that than a 2 family dwelling because it would enable him more flexibility.

Mr. Johnson said that the mixed use is grandfathered and would not be permissible under the regulations. Mr. Manes asked if the Commission could deny a change of use from the Post Office to a similar commercial activity. Ms. Hayes her recollection was that the Commission had decided during the regulation review process not to include that area as part of Business Hamlet or Roadside Commercial. Mr. Manes agreed. Ms. Hayes then reminded the Commission that there will be wording in the new regulations giving the Commission the ability to approve a change of use through a special permit if the Commission feels that it is in keeping with what had been there before or is similar in use to uses surrounding it. So, if the Post Office moves out and the owner would like to put in an ice cream store, the Commission could approve that under the new regulations, but right now that is not addressed in the current regulations. Mr. Wyrick suggested that the applicant might want to wait until the new regulations are in place. Mr. Manes agreed and said that might be the way to go.

Mr. Johnson said that he was still wrestling with the question. Mr. Manes suggested that Ms. Hayes pose the question to Attorney Zizka for his advice. Ms. Hayes said that there is a regulation in the Village Center – Residential allowing older homes to be converted into multi-family units, but this does not apply in the Rural district. Mr. Weingarten said that he believes that even if the second apartment is added, the building is not a multi-dwelling unit. Ms. Hayes said that if you look at the tenanted space, adding another apartment means you now have 3 tenants. Mr. Weingarten understood, but asked for the definition of a dwelling unit, which Ms. Hayes read. Mr. Manes again suggested that Ms. Hayes submit this to the attorney for his advice.

Mr. Manes moved to continue the discussion to the next regular meeting allowing Ms. Hayes to seek legal opinion. Mr. Wyrick seconded and the motion carried unanimously.

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- 6.B.2.** Modification to Permit #62-15C, Kent Center, LLC, 9 Maple Street, modification to include new sign at 12 Old Barn Road for Eckert Fine Arts, Map 19 Block 42 Lot 35.

Mr. Manes recused himself from this discussion.

Ms. Hayes explained that this business was moving into the old Black Sheep Yarns location and that the proposed sign was the same size as the previous business' sign. They are scheduled to meet with the ARB on September 6, 2016.

Mr. Wyrick moved to approve Modification to Permit #62-15C, Kent Center, LLC, 9 Maple Street, modification to include new sign at 12 Old Barn Road for Eckert Fine Arts, Map 19 Block 42 Lot 35 conditioned upon approval by the Architectural Review Board. Ms. McAndrew seconded and the motion carried unanimously.

Mr. Manes returned to the meeting.

7. STAFF REPORT:

- 7.A. Executive Session. Pending Litigation: Planning & Zoning Commission of the Town of Kent Et Al v. Burt, Kenton L. Et Al, Docket No. LLI-CV-16-6013331-S in Litchfield Superior Court. Discussion of strategy and negotiations with legal counsel.**

At 7:43 p.m., Mr. Manes moved to go into Executive Session. Pending Litigation: Planning & Zoning Commission of the Town of Kent Et Al v. Burt, Kenton L. Et Al, Docket No. LLI-CV-16-6013331-S in Litchfield Superior Court. Discussion of strategy and negotiations with legal counsel. Mr. Weingarten seconded and the motion carried unanimously.

The Commission came out of Executive Session at 7:52 p.m.

8. REPORT OF OFFICERS AND COMMITTEES:

- 8.A. Presentation of Incentive Housing Zone Subcommittee**

Ms. Hayes read an email from Matt Winter asking that the presentation be postponed until the next regular meeting.

Mr. Manes moved to continue the Presentation of Incentive Housing Zone Subcommittee to the September meeting. Mr. Wyrick seconded and the motion carried unanimously.

9. OTHER COMMUNICATIONS AND CORRESPONDENCE:

- 9.A. Connecticut Federation of Planning and Zoning Agencies Quarterly Newsletter, Summer 2016**

No action taken.

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9.B. Administrative Permits and Certificates of Compliance

No action taken.

9.C. Request from Patricia Taylor, Deputy Outreach Director, Environment & Human Health, Inc., to Regulate the Use of Outdoor Wood Furnaces.

Ms. Hayes read the following comment from Mr. Winter: "We should carefully consider whether we want to ban outdoor wood furnaces; weighing the economic benefit to some of the Town's lower income families against the environmental and health concerns raised by Ms. Taylor. Is EHHI a governmental or private agency?" Ms. Hayes said that she researched EHHI and reported that they are a private, not-for-profit organization.

Mr. Johnson said that he thought we had discussed this topic during the rewrite of the regulations. Ms. Hayes said she thought it was and also thought that the State would eventually ban their use. Mr. Johnson said that he would not mind having this discussion again. Mr. Manes said that there are a lot of residents in Kent that have them and because of their design you would not know they were being used. The one that is located in Warren on 341 does fill the area up with smoke. Ms. Hayes said that there are strict guidelines for their installation and that since she started she only remembers two permits being issued.

Mr. Johnson said that since he put in radiant heat he feels good that they are not putting pollutants into the air. He asked if any of the other Commissioners wanted to discuss it. Mr. Manes said that there are a number of different styles that can be installed that burn at a higher level reducing the amount of pollutants.

Ms. McAndrew commented that there were not a lot of towns on the list that had banned them and questioned why. Ms. Hayes said that for a lot of people it is a viable heat source.

Mr. Manes said that he did not think they needed to be banned, but that stricter regulations need to be developed.

Ms. Hayes asked how the Commission would like her to handle this. Mr. Johnson said that if the organization wanted to supply additional information, he might want to pursue it further by not banning, but by adding in restrictions of their use. Mr. Weingarten suggested that they be banned from the Village Center. Ms. McAndrew asked if their use affect property values. Mr. Johnson said that it would all depend on the location and the type. He continued that he thought it was a potential health problem.

10. ADJOURNMENT

Mr. Wyrick moved to adjourn at 8:04 p.m. Mr. McAndrew seconded and the motion carried unanimously.

Respectfully submitted,


Donna M. Hayes, CZEO
Land Use Administrator

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