

**TOWN OF KENT  
PLANNING AND ZONING COMMISSION**

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**MARCH 16, 2017 SPECIAL MEETING MINUTES**

The Town of Kent Planning and Zoning Commission held a special meeting on Thursday, March 16, 2017 at 7:00 p.m. in the Kent Town Hall.

**1. CALL TO ORDER**

Mr. Johnson called the meeting to order at 7:01 p.m.

**2. ROLL CALL AND APPOINTMENT OF ALTERNATES IF REQUIRED**

Commissioners Present: John Johnson, Chairman; Karen Casey, Darrell Cherniske, Adam Manes, Anne McAndrew, Matt Winter

Staff Present; Donna Hayes, Land Use Administrator

Mr. Johnson elevated Ms. McAndrew to voting status.

**3. NEW BUSINESS:**

**3.A. DISCUSSION AND POSSIBLE DECISION**

**3.A.1. Regulation Rewrite – review of Comparison Chart prepared by Donna Hayes**

Ms. Hayes said that she had not heard from Attorney Zizka with regard to those sections bolded but had spoken with Mr. Chalder to give him an update on where they were in the approval process.

Mr. Johnson said that after reviewing the comparison chart, he did not disagree with anything that Ms. Hayes had written. He asked if the Commission had any comments they would like to make.

Mr. Cherniske noted that Ms. Hayes had asked that having accessory structures in the front yard be discussed again by the Commission. Mr. Manes said that the question becomes what is the front yard if the front of the house does not face the road. Mr. Winter replied that the front yard is the yard that faces the street no matter which way the house is oriented. Mr. Cherniske said that if you have a large piece of property and the house is set back from the road, not being able to place an accessory structure in the front yard would negate all of that property. Not allowing an accessory structure in the front seems arbitrary. Ms. Hayes said that there were two instances one where a pool was placed in the front yard and one built a racquet ball court. Mr. Manes asked if they could be seen from the roadway and Ms. Hayes said that they could. Mr. Cherniske commented that they were talking about a structure other than a garage. Ms. Hayes agreed and said that she feels the regulation should apply to "recreational" accessory structures such as pools, tennis courts, racquet ball courts, etc. Mr. Cherniske

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said that he feels this regulation encourages people to build their houses closer to the road. Ms. Hayes said that she was okay with accessory dwelling units that would house cars, wood shop, barn, etc. would be fine but she would not want to see recreational structures in the front yard. Mr. Manes agreed.

Mr. Manes said that he did not like the definition of "front yard" because there were at least 100 houses with their orientation to the side yard.

Mr. Cherniske asked if the Commission were to limit this regulation to recreational structures, would they have to list what those recreational structures were? Ms. Hayes said that she felt everyone knows what recreational structures are.

Mr. Manes said that he would like to see this changed to allow for it to work with houses that are not facing the roadway. Ms. Hayes reminded the Commission that putting a recreational facility in the front yard is allowed but it is allowed by special permit.

Mr. Johnson said that he always thought this was over-regulating. Mr. Cherniske said that whenever it has come up it has come up as a large enough project that it would require a special permit. Mr. Manes suggested that the Commission do what Ms. Hayes said and require a special permit for the installation of recreational accessory structures be allowed by special permit.

Ms. Casey told the Commission about a very large structure in Washington that houses a tennis court. She wondered how that could have happened. Ms. Casey asked if, because it is enclosed, what would it be considered. Ms. Hayes said that she would consider that an accessory structure. Mr. Johnson asked if, not matter was it was, was it objectionable?; did it bring down property values? Mr. Manes said that it was a nice looking building but it looks like a commercial building. Ms. Hayes said that it would be a special permit.

Mr. Manes said that there is a property on the lake that has a huge athletic building technically placed in the front yard. He wondered how that was permitted.

Mr. Johnson asked if it really makes a difference what the building is used for if it's a special permit. He continued that you could end up with an architecturally designed garden shed or a cheaply built recreational structure. If it's allowed by a special permit, does it really matter what the use is. Ms. Hayes replied no. Mr. Winter said that he did not think so. Mr. Winter said that if anything were to be built in the front yard a special permit would be required. Mr. Johnson said that it seemed logical to him. Ms. Hayes asked if someone built their house back from the road and they want to build their garage in the front yard, the Commission would require a special permit. Mr. Cherniske said that he thought it was too restrictive.

Mr. Winter said that the Commission has gone from no accessory structures in the front to all in the front via a special permit. Mr. Johnson said that he would be okay with detached garages by right and all else by special permit. He added that he would consider all by right. Ms. Hayes said that basically it would continue to be regulated as it currently is.

Ms. Hayes asked the Commission to look at 9120.5 which shows that fences 4' and above should be regulated in the VR-1, 2, VC and BH. She asked if they really wanted her to regulate them and recommended that it be changed to 6'. Ms. Hayes also told the Commission that the Building Official now requires permits for fences over 7'. It was decided to change the height from 4' to 6'.

Mr. Winter asked the Commission to revisit the accessory structure issue by looking at §3234.1. Ms. Hayes asked if §9130.1 negated §3234.1. Mr. Johnson said that it does for detached garages. Mr. Winter suggested that

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§3234.1 be changed and then realized that the same language continues throughout all sections. Mr. Winter suggested that §9130 be struck but Mr. Johnson said that detached garages would then require a special permit.

After discussion, it was decided that §9130.1 be struck, detached garages will be allowed by staff permit and accessory structures other than detached garages will be required by special permit. This change to the proposed regulations continues the way this scenario would be currently handled.

Ms. Hayes asked the Commission to look at §3232.3. She thought the discussion was to not regulate propane tanks in the rural district, but to regulate them in the VC-R1 and R2 districts. Ms. Hayes suggested that this section be moved and become §3231.13. Mr. Cherniske suggested that it not be regulated but suggested that the setback be changed to 10' from the property line. Ms. Hayes said that in most cases the tanks would be placed close to the house. Mr. Cherniske said that he was okay with that, but said that he would not like to see a 500 a/g lp tank close to the property line. He asked if they would be allowed in the front yard and Mr. Winter replied that they would, but they would have to be screened from view. Mr. Winter suggested moving it §3231 and said that they would need a building permit for installation and if they were between the principal building and the street they would need to be screened from view from the street and from adjacent premises.

With regard §3234.4, Attorney Zizka had asked what "multiple season housing" was. Ms. Hayes reminded the Commission that during the discussion regarding temporary farm worker house, Mr. Chalder had originally defined a normal growing season as April through October. The question that came up was what happens if the farm is selling Christmas trees or harvesting fall produce. The idea is to make farm worker housing temporary so that no structure used for that purpose would become a permanent structure. It was suggested that "multiple season housing" be changed to "seasonal agricultural housing" with Ms. Hayes coming up with a definition. Mr. Johnson said that he thought it was insufficient for someone who will be providing farm worker housing, but at least it was something. He encouraged farmers to come forward with a better description.

With regard to §3234.4.a., Attorney Zizka said that "existing building" should be defined. Mr. Johnson and Ms. Hayes did not think so although Ms. Hayes suggested adding the word "residential". Mr. Johnson said that he did not think that was even necessary. Ms. Hayes said that because this was a special permit she was okay with leaving it the way it was.

With regard to §3234.4.c., Mr. Johnson said that he did not think a size requirement was required. Ms. Hayes said that there is no size requirement anywhere else in the Town and did not think it was necessary in this case. This would mean that, as long as the land could handle the septic requirement, a tiny house could be built.

With regard to §3234.15, Ms. Hayes suggested that the whole section be removed. As the Inland Wetlands agent, Ms. Hayes explained that a resident of the lake proposed the installation of a 300+ sq. ft. dock. During the application process, Ms. Hayes was asked to do research on what impact a dock that size would have on the lake. Her research found that large docks are detrimental to the life of the lake. Because of her research, the application was denied by the Inland Wetlands Commission. Ms. Hayes offered to have the section reviewed by the Inland Wetlands Commission but it was determined that since the regulations do allow season docks at a maximum of 150 sq. ft. as of right, this section should be struck.

Mr. Manes said that he did not understand why there should be a minimum lot width under §3240. It was decided that this be removed.

Ms. Hayes said that Attorney Zizka asked how §3331.1 would be handled if the property is a two-family dwelling. Currently, the parking of more than one commercial vehicle is allowed by Special Permit. The question becomes why should the resident of the second dwelling unit be penalized. Ms. Hayes suggested that the "per property" be changed to "per dwelling unit". She also pointed out that this applies to the Birch Hill section

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of Town and Mr. Winter asked if this carries through to the other section. Ms. Hayes replied that it probably does. Ms. Hayes recommended that §3334.2 also be changed and the rest of the regulations should be changed if this wording carries through to other sections.

Ms. Hayes said that she hopes that the residents who are operating the farmstand understand that if there is not "adequate access, sight lines and parking", they would be responsible for any issues that might arise as this is permitted as of right. Mr. Winter said that gives people the opportunity to complain if the requirements are not met. The question becomes who do they complain to. Mr. Manes said that they should complain to the police. Ms. Hayes said if the requirements are in the regulations, the resident can't say that they were not aware of the requirements.

Ms. Hayes told the Commission that Mr. Chalder had included a disclaimer in other sections. She suggested that it be added in order for the regulations to be consistent. The Commission agreed.

With regard to §4122.1, Ms. Hayes explained that, for example, a change of use from medical to retail would require approval from the Commission via site plan approval. She does not issue changes of use in the Village Commercial District. In addition, a change of use would not be issued for a "like-for-like" change. The Commission agreed that the section be deleted.

With regard to §4123.6, Ms. Hayes said that she feels that everyone has a good handle on what a "personal service establishment" is and does not feel that "tattoo and massage" need to be added. The Commission agreed.

While discussing §4123.7, 8 and 9, Ms. Hayes said that she thinks Attorney Zizka was asking why they could not be combined. She feels that the reason they are separate items is because the parking requirements are different for each use. It was her recommendation that it remain; the Commission agreed.

With regard to §4123.10, Mr. Manes said that "laundromats" have longer hours and are not really selling anything. His recommendation was that it be moved to 4124.25, Permitted by Special Permit.

Mr. Winter suggested that a semi-colon(s) be added to the following sections: one in §4124.16, 18, 19 and two in §4124.20. The Commission agreed.

Mr. Manes asked if the Commission planned on reviewing the comparison chart section by section. Mr. Cherniske said that he thought the Commission was only going to discuss those sections printed in red. Mr. Johnson said that, at first, he thought it was necessary but after the past hour he feels that they should continue going section by section. Ms. Casey agreed. Mr. Johnson asked if the Commission wanted to have 2 or 3 meetings. Mr. Manes said that if they decided to do that, it had to be done quickly; Mr. Johnson agreed; Ms. Casey said she did not see any other way of doing it. Ms. Casey also suggested having the meetings earlier. Mr. Winter said that he is not in favor of continuing this for another 6 months and wants a commitment from the Commission to be done by the end of April. It was decided that 3 meetings be scheduled for March 23<sup>rd</sup>, 30<sup>th</sup> and April 6<sup>th</sup> at 6:00 p.m.

With regard to §4124.24, Ms. Hayes explained that there is a definition for "Education Center" and did not think that any further explanation is needed. She recommended that it remain. The Commission agreed.

Attorney Zizka had removed "and/or" from §4224.4 and the Commission suggested that it be changed to semi-colon.

With regard to §4224.5, the Commission agreed that "tattoos and massage parlors" did not need to be added.

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With regard to §4224.6, Attorney Zizka wrote “see prior”. Mr. Johnson suggested that this section be handled like §4123.7, 8 and 9 and be separated out because of the difference in the parking requirement.

With regard to §4224.11, Ms. Hayes said that she thinks the section should stay in. There were some changes at one point in time to the way a Certificate of Location Approval was handled, but right now, the Zoning Board of Appeals is the approving body. Leaving this section in just reinforces the proper procedure for those looking at the regulations. The Commission agreed.

With regard to §4233.1, Attorney Zizka deleted the section but Ms. Hayes did not know why. It was her recommendation that it remain. The Commission agreed.

The Commission agreed that that the disclaimer should be added to §4240.

Ms. Hayes said that she would not issue a change of use involving “like-for-like” uses and configurations as noted in §4322 and recommended that it be deleted. Mr. Winter asked that the section remain and be noted as “reserved”. The Commission agreed. Mr. Winter asked Ms. Hayes to make a notation to confirm that changes of use in the Village Center Commercial and Industrial Districts are done via site plan approval.

With regard to §4324.4, Attorney Zizka questioned if “assembly” should be site plan approval only. Ms. Hayes thought the word should be changed to “assembling”; but the Commission felt it was fine the way it was. No changes to be made.

Ms. Hayes said that §4332.3 said it was a typo and she was referring to §4331.2. Her recommendation was that there be no limit to the parking of commercial vehicles on properties in the Industrial District. Mr. Manes agreed as did Mr. Johnson. Mr. Winter asked if the Commission wanted the parking of commercial vehicles limited to the business on the lot. Mr. Johnson said he was wondering about that himself. Mr. Manes said some of the businesses are leasing space to commercial businesses not located on the property and used one of the businesses as an example. Mr. Johnson asked if they lease the parking space for \$1/year would that be considered part of the business. Mr. Manes said that they do that at Berkshire Transformer. Ms. Hayes said that right now the bus company, Brian Haggarty and Mike Gawel were leasing space on the Berkshire Transformer property. She continued that at one point in time Eversource, Chris Bouchard, Kevin Brady and a large number of cars were renting space on the property. Mr. Cherniske asked if they were to pay \$1/year would they be considered part of the business. Mr. Winter replied that he did not think the amount of money paid per year was the issue. Mr. Manes said that if the vehicles were registered vehicles it was one thing; if they were stored there making it a junk yard that was another and did not think regulating the number of registered commercial vehicles was what the Commission wanted. It was agreed that regulating the number of unregistered commercial vehicles was important. Mr. Johnson suggested adding the following: “d. registered with the Connecticut Department of Motor Vehicles.” Ms. Hayes asked if they wanted the vehicle storage tied to a business located on the property. The Commission replied no. Ms. Hayes asked about the trailers that were there. Mr. Manes explained that they are not vehicles but containers which keeps the area clean because the equipment is stored within. Ms. Casey suggested adding them to the regulation. Ms. Hayes asked if the Commission considered them an accessory use. It was decided that the containers were there long enough to be accessory use. Mr. Winter said to refer them to §4333. The following changes were recommended:

With regard to §4340, Ms. Hayes said that the disclaimer just needs to be added. The Commission agreed.

Ms. Hayes told the Commission that if any of the members wanted to submit comments on what she had prepared prior to the next meeting, she would make sure that the other members received it and that it would be discussed at the meeting.

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*Mr. Manes moved to continue Regulation Rewrite – review of Comparison Chart prepared by Donna Hayes to the next special meeting. Mr. Winter seconded and the motion carried unanimously.*

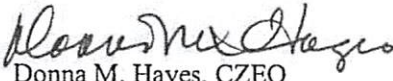
**3.A.2. Regulation Rewrite – Incentive Housing Zone Subcommittee Final Report and discussion of regulation acceptance.**

*Mr. Manes moved to continue Regulation Rewrite – Incentive Housing Zone Subcommittee Final Report and discussion of regulation acceptance to the next special meeting. Mr. Winter seconded and the motion carried unanimously.*

**4. ADJOURNMENT**

*Mr. Winter moved to adjourn at 8:55 p.m. Mr. Cherniske seconded and the motion carried unanimously.*

Respectfully submitted,

  
Donna M. Hayes, CZEO  
Land Use Administrator

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