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BY

**TOWN OF KENT**  
**PLANNING AND ZONING COMMISSION**  
41 Kent Green Boulevard  
P.O. Box 678  
Kent, CT 06757  
Phone (860) 927-4625 Fax (860) 927-4541

**OCTOBER 12, 2017 REGULAR MEETING MINUTES**

The Town of Kent Planning and Zoning Commission held a regular meeting on Thursday, **October 12, 2017** at **7:00 p.m.** in the Kent Town Hall.

**1. CALL TO ORDER**

Chairman Johnson called the meeting to order at 7:02 p.m.

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

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

Staff Present: Donna Hayes, Land Use Administrator

**3. READING AND APPROVAL OF MINUTES:**

**3.A.** Regular Meeting Minutes of September 14, 2017.

The spelling of the word "alleviate" was corrected on page 7.

*Mr. Winters moved to approve the Regular Meeting Minutes of September 14, 2017 as amended. Mr. Cherniske seconded and the motion carried unanimously.*

*Mr. Manes moved to add to the agenda item 6.B.4, 6.B.5, 6.B.6, and 6.B.7. Mr. Winter seconded and the motion carried unanimously.*

**4. PUBLIC COMMUNICATIONS (ORAL):** None

**5. OLD BUSINESS:**

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

**5.A.1.** Application #'s 70-17SP and 71-17C, Barbara A. Brown, 530 Skiff Mountain Road, construction of accessory dwelling unit, Map 7 Block 18 Lot 6.

This public hearing was reopened at 7:04 p.m.

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Donna Hayes reported that the applicant has not responded as to whether she has received an easement with regard to this application. The members agreed to table this matter until the end of the meeting to allow time for Ms. Brown or a representative to come forward.

*Mr. Manes made a motion to table the public hearing at 7:06 pm for application #s 70-17SP and 71-17C, Barbara A. Brown, 530 Skiff Mountain Road, construction of accessory dwelling unit, Map 7 Block 18 Lot 6. Mr. Wyrick seconded and the motion carried unanimously.*

*Mr. Winter made a motion at 10:30 pm to return to the agenda item for application #'s 70-17SP and 71-17C, Barbara A. Brown, 530 Skiff Mountain Road, construction of accessory dwelling unit, Map 7 Block 18 Lot 6. Mr. Manes seconded and the motion carried unanimously.*

*Mr. Manes made a motion to close the public hearing at 10:30 pm for application #s 70-17SP and 71-17C, Barbara A. Brown, 530 Skiff Mountain Road, construction of accessory dwelling unit, Map 7 Block 18 Lot 6. Mr. Wyrick seconded and the motion carried unanimously.*

*Mr. Manes made a motion to deny without prejudice for lack of information application #s 70-17SP and 71-17C, Barbara A. Brown, 530 Skiff Mountain Road, construction of accessory dwelling unit, Map 7 Block 18 Lot 6. Mr. Wyrick seconded and the motion carried unanimously.*

The members agreed that should Ms. Brown resubmit this application the application fee shall be waived.

## **5.B. DISCUSSION AND POSSIBLE DECISION**

### **5.B.1. Application #'s 45-17SP and 46-17C, Birch Hill Recovery Center, LLC for Kent Realty, LLC., 46 Maple Street, operation of drug and alcohol rehabilitation center, Map 4 Block 12 Lot 6. (11/19/17)**

Chairman Johnson opened the discussion regarding this matter and noted that alternates could not take part in this discussion per their Attorney's advice. Additionally, the Attorney recommended that if members vote in opposition, then it is helpful to state why; however, this is not requirement.

The members agreed that this application conforms to the definition of a special permit. They reviewed the standards for approval of a special permit.

Mr. Winter stated that the Commission should be guided by the regulations. He feels that the letter from Mr. Szymanski addresses all the requirements of Section 4.15.1.b. Ms. Hicks asked that the members revisit the fence with regard to aesthetics. It was noted that the fence was a response to a concern that provides somewhat of a sense of security even though it is only three sided. Ms. Casey explained that she does not believe that this is an aesthetically pleasing component of their plan. Mr. Wyrick stated that if the fence ran in the front of the building, then it would be more of an aesthetic issue. Mr. Johnson noted that this is an important component of approval for the security of the neighbors and is relatively properly placed. Mr. Manes agreed. It was noted that the closest neighbor to this proposal is the Transfer Station.

The group reviewed the site plan requirements per the Regulations. The members were reminded that a blanket waiver was requested due to the existing structure. It was confirmed an application has not yet been submitted for signage. A condition of approval will be that the plan is reviewed by the Sewer Commission.

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The members considered Section 4.15.3 with regard to the health, safety and welfare of the community. Mr. Johnson noted that a lot of legitimate concerns were raised; however, they did not meet the criteria he would need to vote against this proposal. He stressed the importance of placing conditions on an approval. Mr. Wyrick explained that there is an entire list of criteria that they will need to meet through the State.

Ms. Hicks pointed out that within Birch Hill's executive summary it notes that they will be operating under a 3.7 ASAM in first year of existence. Mr. Manes found this to be troubling because of the concern with the ambulance being able to respond to the increased calls and still serve the existing community. However, if they achieve a 4.0, as the applicants represented to this Commission, the amount of calls would be reduced. The facility in Canaan is a 3.7 and has a large call volume. He questioned what would happen in a year if they do not achieve the 4.0. Mr. Johnson reminded the group that their entire presentation was based upon Birch Hill becoming a 4.0 facility and that should be a condition of approval. Mr. Wyrick suggested that it should be stated that at no time should they be allowed to fall below a 4.0 facility.

Ms. Casey explained that she keeps coming back to the fact that Birch Hill is counting on emergency service volunteers to cover this facility. They rejected the idea of having their own emergency services. It is going to be Kent's everyday citizens who are going to take the back seat with regard to emergency response. Chairman Johnson reported that the Land Use Office reached out to the Fire Department several times regarding this issue with no response.

The group discussed that the testimony by the applicants was that with a 4.0 facility Birch Hill would expect four calls per year vs. the number of calls a level 3.7 would receive, which would create a burden on the emergency services. The members agreed regarding the importance of an ASAM level 4.0 remaining at all times.

Mr. Winter reminded the group that the applicants stated they are willing to have two staff members on site at all times trained as EMTs. It was further clarified that they would need to be members of KVFD in order for a staff member to ride in the ambulance. Mr. Johnson felt that this requirement was excessive. He was reminded that this number came from the testimony of the applicant. Mr. Manes explained that the applicants can come back for a modification of this requirement if it is found that their emergency calls are not impacting the KVFD.

It was agreed that any condition giving an organization such as the KVFD veto power over any approval from this Commission was not a good idea. Therefore, a requirement of an agreement between the KVFD and Birch Hill cannot be a condition of approval.

Chairman Johnson asked the members to consider the impact on the community at large. He stated that he is not overly concerned with the fact that this is a drug rehabilitation facility. Mr. Winter explained that he believes that the Commission set a precedent when they approved MCCA. He stated that it is about the nature of the community. MCCA is in a residential area; however, their facility was conditioned upon not having detox on the site. The members discussed their thoughts on the nature of the business and mostly did not find it to be a drug related public safety issue. Ms. Casey advised that she feels this proposal is a health and safety issue for the community, it can affect real estate values and the safety of our children.

Ms. Hicks and Mr. Manes discussed the possibility of continuing this conversation to allow the members to further consider what was discussed tonight. The group reviewed the draft resolution of approval and made changes as discussed tonight. The group agreed that it would be best to review the revised draft and Ms. Hayes agreed to make this draft available tonight.

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*Mr. Manes made a motion at 9:28 pm to table until the end of tonight's meeting application # 45-17SP and 46-17C, Birch Hill Recovery Center, LLC for Kent Realty, LLC., 46 Maple Street, operation of drug and alcohol rehabilitation center, Map 4 Block 12 Lot 6. (11/19/17). Mr. Winter seconded and the motion carried unanimously.*

The Commission returned to this agenda item at 10:00 pm.

*Mr. Winter made the following motion:*

*RESOLVED: That the Kent Planning and Zoning Commission approve with conditions the applicant's Application #45-17SP and #46-17C, Kent Realty, LLC, 46 Maple Street, operation of a drug and alcohol rehabilitation center, Map 4 Block 12 Lot 6.*

*This resolution is approved subject to the following conditions:*

- 1. The Commission considers the factual representations made by the applicant and its agents, representatives and consultants with regard to the nature, scope, location, extent, timing, frequency and all other aspects of the proposed use to have been critical in the Commission's determination that the Special Permit could properly be approved. Therefore, the applicant shall be bound by all such factual representations as though expressly made conditions of this approval, except as modified by this resolution. The applicant's factual representations include, but are not limited to, those made at the public hearing and in the following documents:*
  - A. Special Permit application dated June 18, 2017.*
  - B. Birch Hill Recovery Center LLC Executive Summary, undated.*
  - C. Site Plan application dated June 18, 2017.*
  - D. Class A2 Survey filed on the Town of Kent Land Records on October 15, 1993, and numbered 827A.*
  - E. Alta/NSPS Land Title Survey Property/Boundary Survey prepared by Meehan & Goodin, dated October 1, 2016.*
  - F. Letter of authorization from Kent Realty, LLC, dated June 5, 2017.*
  - G. Patriot Safety Group LLC Safety Analysis received August 7, 2017.*
  - H. Responses to Kent P&Z Company Questions for Birch Hill Recovery Center received August 7, 2017.*
  - I. Birch Hill Recovery Center: Compliance with Special Permit Standards for Approval received August 7, 2017.*
  - J. A letter from Paul S. Szymanski, P.E., President, Arthur H. Howland & Associates dated August 7, 2017.*
  - K. Site Plan entitled Birch Hill Recovery Center, LLC, prepared by Arthur H. Howland & Associates dated August 8, 2017.*
  - L. Patriot Safety Group LLC Job-Based Analysis received September 13, 2017.*
  - M. Birch Hill Recovery Center Staffing Roster received September 13, 2017.*
- 2. That in the event any client is absent without leave (AWOL), an administrator and Patient Services Officer must immediately provide notice to the Connecticut State Police.*
- 3. That the facility will be comprised of not more than 85 beds and that no more than 27 of which will be used for detox.*
- 4. That all State and Federal licenses, permits, accreditations and standards applicable to the proposed uses must be acquired and maintained at all times.*

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5. *That the Land Use Office for the Town of Kent be notified if and/or when there is a change to the Certificate of Need issued by the State of Connecticut Department of Public Health, Office of Health Care Access.*
6. *That the applicant shall be responsible for ensuring that its clients do not trespass on abutting or adjoining properties.*
7. *That any changes in the actual use as represented during the application process, shall require a modification of this Special Permit.*
8. *That a letter of approval from the Town of Kent Sewer Commission shall be submitted to the Land Use Office prior to the issuance of a zoning permit.*
9. *That a letter of approval from the Torrington Area Health District shall be submitted to the Land Use Office prior to the issuance of a zoning permit.*
10. *That in accordance with the representations made by the applicant, an American Society of Addiction Medicine (ASAM) Level IV shall be maintained at all times.*
11. *That in accordance with the representations made by the applicant, no clients shall be accepted who are under the jurisdiction or custody of the Department of Corrections or whose attendance was mandated by the court.*
12. *That the permitted use shall be limited to a privately-operated convalescent home for the treatment of substance abuse in clients 18 years of age or older.*
13. *That no outpatient services will be provided.*
14. *That perimeter fencing without the privacy screening be installed as described in the documentation submitted by Patriot Safety Group, LLC and shall be maintained and remain in working order at all times.*
15. *That a minimum of two (2) Patient Services Officers shall be on site 24/7, 365 days per year.*
16. *That a minimum of two (2) Emergency Medical Technicians, who will also be members of the Kent Volunteer Fire Department, shall be on site 24/7, 365 days per year. These two Emergency Medical Technicians shall be separate and apart from Patient Services Officers.*
17. *That in accordance with the representations made by the applicant, upon release of the patient, whether they completed the program or not, transportation to a location pre-determined by the patient's case manager will be provided 24/7, 365 days per year.*
18. *That in accordance with the representations made by the applicant, no patients shall be accepted on an emergency basis.*
19. *That each condition attached to this special permit approval is an integral part of the approval and inseparable from it. Should any of the conditions attached hereto be found by a court of competent jurisdiction on appeal to be void, then, in that event, the special permit granted herein is void and of no legal effect.*

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20. *That the violation of any of the conditions of this special permit approval may be grounds for revocation of the special permit pursuant to section 4.15.8 of the Zoning Regulations.*

*In granting the above special permit application, the Commission states on its record that, in the Commission's judgment, the proposed project as conditioned and limited by this motion will conform to the requirements of the Rural District and that it satisfies the factors the Commission must consider in reviewing such amendments, as set forth in the Plan of Conservation and Development and the Zoning Regulations of the Town of Kent.*

*Adopted by the Kent Planning and Zoning Commission this 30th day of October, 2017.*

*Mr. Wyrick seconded*

*Motion passed 4-2 -1. Casey and Winter opposed. Johnson abstained as chairman.*

Winter stated that he voted in opposition because he feels this Commission set a precedent with MCCA with regard to the condition regarding the detox beds. Casey stated that she voted in opposition due to the concerns for the health safety and welfare of the community.

**5.B.2. Rewrite of Zoning Regulations: No action taken.**

**6. NEW BUSINESS:**

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

**6.A.1. Temporary Health Care Structures - discussion on whether to opt out or not.**

Chairman Johnson opened this public hearing at 9:30 pm.

Mrs. Hayes reminded the group that this was previously considered by the Commission who determined there was no need to make a formal decision regarding this matter. She advised that since then the Town Attorney stressed the importance of making a formal decision. It was noted that the Town may require up to \$50,000 bond to install a temporary structure and health department requirements would apply. Kent allows for accessory dwellings, which would seem to be a better option for those in need of such structure.

Ms. Worthington came forward and it was confirmed for her that currently this would be allowed in Kent unless the Commission decided to opt out.

The group was uncertain whether there is a deadline for opting out. Additionally, they were uncertain of the reasoning of the Town Attorney for the recommendation for formally making a decision. It was confirmed that the Town Attorney recommended opting out, but if it was advised that the Commission would like to allow this then Regulations would have to be rewritten accordingly. The members agreed to continue the public hearing and to ask the Town Attorney to be present at the next meeting regarding this matter.

*Mr. Manes made a motion to continue the public hearing for the Temporary Health Care Structures - discussion on whether to opt out or not. Mr. Winter seconded and the motion carried unanimously.*

**6.B. DISCUSSION AND POSSIBLE DECISION**

**6.B.1. Inclusion of Incentive Housing Zone into the proposed Town of Kent Regulations.**

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The Commission was reminded that they have already accepted the report from the Committee and will have to vote to adopt this into the regulations.

*Mr. Manes made a motion to accept into the Regulations the Incentive Housing Zone as presented by the Incentive Housing Committee. Mr. Wyrick seconded.*

*Discussion: It was clarified that there will be further discussion on the details of this matter.  
The motion carried unanimously.*

**6.B.2. Capital Budget Project Request – Five Year Capital Plan - reviewed**

The members reviewed the Capital Project Budget Request and no changes were recommended.

**6.B.3. Update on Gilmore Girls Fan Fest, October 20-22, 2017 - tabled Manes/Winter**

Mrs. Hayes reported that the Farmers' Market by the Chamber of Commerce will be moved temporarily to behind the Welcome Center for safety matters during the event. She reviewed the signage for this event.

The group agreed to take a break at 9:54 pm and returned at 10:00 pm

*Mr. Manes made a motion to move to agenda item 5.B.1. Mr. Winter seconded and the motion carried unanimously.*

**6.B.4. Application #86-17C, John Casey, Trustee, 5 Kent Green Boulevard, change of use from personal service (8.1.8) to retail sales (8.1.4.), Map 19 Block 42 Lot 8.**

Mrs. Hayes reported that the request is to change this business to a retail establishment to sell eyeglasses. Parking will not be affected.

**6.B.5. Application #87-17C, John Casey Trustee, 3 Landmark Lane, change of use from retail (8.1.4.) to office (8.1.10), Map 10 Block 42 Lot 2.**

Mrs. Hayes reported that the request is to move Mr. Casey's office to the former retail bird food store. Parking will not be affected.

**6.B.6. Modification to site plan application #72-07C, Housatonic Enterprises, Kent Green alternative signage program to include: three 2' x 3' freestanding signs, Map 19 Block 42 Lot 8.**

Mrs. Hayes explained that this application is to change signage in accordance with the previous applications.

**6.B.7. Modification to site plan application #72-07C, Housatonic Enterprises, Kent Green alternative signage program to include: one 3' x 4' freestanding sign; and one 2' x 3' freestanding sign, Map 10 Block 42 Lot 2.**

Mrs. Hayes explained that this application is to change signage in accordance with the previous applications.

*Mr. Manes made a motion to approve the following:*

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- Application #86-17C, John Casey, Trustee, 5 Kent Green Boulevard, change of use from personal service (8.1.8) to retail sales (8.1.4.), Map 19 Block 42 Lot 8
- Application # 87-17C, John Casey Trustee, 3 Landmark Lane, change of use from retail (8.1.4.) to office (8.1.10), Map 10 Block 42 Lot 2.
- Modification to site plan application #72-07C, Housatonic Enterprises, Kent Green alternative signage program to include: three 2' x 3' freestanding signs, Map 19 Block 42 Lot 8. Mr. Weingarten seconded and the motion carried unanimously.
- Modification to site plan application #72-07C, Housatonic Enterprises, Kent Green alternative signage program to include: one 3' x 4' freestanding sign; and one 2' x 3' freestanding sign, Map 10 Block 42 Lot 2.

The motion was seconded by Winter and carried unanimously.

7. **STAFF REPORT:** No action taken

8. **REPORT OF OFFICERS AND COMMITTEES:** No action taken

9. **OTHER COMMUNICATIONS AND CORRESPONDENCE:**

- 9.A. Administrative Permits and Certificates of Compliance - reviewed
- 9.B. Monthly Financials – July, 2017 –August, 2017- reviewed
- 9.C. Legal Notice from Town of Sherman Regarding Proposed Changes to the Zoning Regulations, New Section:352, Farming - reviewed
- 9.D. Land Use Office Hours – October 18<sup>th</sup> through November 3<sup>rd</sup>. - reviewed

No action taken.

## 10. **ADJOURNMENT**

Mr. Wyrick moved to adjourn at 10:30 p.m. Mr. Manes seconded and the motion carried unanimously.

Respectfully submitted,

Tai Kern

Tai Kern,  
Land Use Clerk

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