

TOWN OF KENT
ZONING BOARD OF APPEALS
41 Kent Green Boulevard
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BY *Donna M. Hayes*
TOWN CLERK

NOVEMBER 10, 2015 REGULAR MEETING MINUTES

The Town of Kent Zoning Board of Appeals held a regular meeting on November 10, 2015 at 7:00 p.m. in the Kent Town Hall.

1) Call to Order and Roll Call

Mr. DiPentima called the meeting to order at 7:00 p.m.

Board Members Present: Anthony DiPentima, Chairman; Anne Bisenius, Nick Downes,
Edward Hoffman, Daniel Murray, John Noneman, Michael VanValkenburg

Staff Present: Donna M. Hayes

2) Appointment of Alternates(s) to Voting Status.

Mr. DiPentima elevated Ms. Bisenius to voting status. He then informed those present that the newest member of the Board, Susan West, would not be in attendance due to pending knee surgery.

3) Acceptance or Revision of Agenda

Mr. VanValkenburg moved to accept the agenda as presented. Mr. Downes seconded and the motion carried unanimously.

4) Reading and Approval of Regular Meeting Minutes of September 8, 2015.

Ms. Bisenius moved to approve the Regular Meeting Minutes of September 8, 2015, as written. Mr. Downes seconded and the motion carried unanimously.

5) Recess Meeting. Convene Hearing:

Mr. DiPentima recessed the meeting and convened the hearing at 7:01 p.m.

5.1. Application #04-15, Kinney Woodworking for Jonathan C. and Carolyn Younger, 52 Treasure Hill Road, relief from section 5.5, front yard setback, Map 11 Block 34 Lot 38.

Mr. Jack Kinney, owner of Kinney Woodworking, was present to present the application to the Board. He explained that currently the homeowners have to exit the main house in order to gain access to a small studio addition on the southerly side of the main house. The proposed plan is to add a connector with the gable end facing west. This gable end will only exceed the existing roof line by approximately 6" to 12" and will probably not be seen from Treasure Hill Road. Mr. Kinney plans on adding a set of stairs to access the mechanical room and a small sitting area with no additional bedrooms. Mr. DiPentima confirmed that their hardship is the fact that this studio cannot be accessed internally from the main house. Mr. Kinney confirmed and also commented that

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this new connector will replace the deck that is currently used to access the studio. Ms. Hayes commented that the main house and the studio are pre-existing non-conforming. Mr. Hoffman commented that this application is for an increase to the non-conformity and said that the new connector will not be seen from Treasure Hill Road.

Mr. Downes asked Ms. Hayes if she had received any comments from the adjoining property owners and she replied that she had not.

Having no further questions, Mr. DiPentima closed the hearing at 7:10 p.m. and reconvened the meeting in order to entertain a motion on application #04-15.

Mr. Hoffman moved to approve Application #04-15, Kinney Woodworking for Jonathan C. and Carolyn Younger, 52 Treasure Hill Road, relief from section 5.5, front yard setback, Map 11 Block 34 Lot 38 on the basis that there is a hardship as everyone should be able to walk internally between one room and another in their house. Mr. Downes seconded. Mr. DiPentima added that this application does not deviate from the general plan of the area. Mr. Hoffman agreed and Mr. Downes seconded the amendment to the motion. The motion carried unanimously.

Mr. DiPentima convened the hearing at 7:14 p.m.

5.2. Application #05-15, Iron Horse Customs, LLC, for Cynthia M. and Wayne C. Gustafson, Trustees, 21 Bridge Street, Certificate of Approval for Motor Vehicle Sales, Services and Repair Uses, Map 19 Block 13 Lot 10.

Mr. Richard Dolson was present to address the Board. He explained that he is a partner with Iron Horse Customs and not an owner of the property. Mr. Dolson told the members that the plan was to buy, sell and restore classic motor vehicles from the 1930's to the 1970's. In addition, they would be customizing motorcycles and running a small retail shop. He explained that the building contains 6 bays where the work would be performed. Mr. Dolson said that they have been working on the interior of the building bringing it up to code.

Mr. DiPentima asked Mr. Dolson how they plan on handling the motorcycle noise that will be associated with the repairs/customization. Mr. Dolson replied that they plan on keeping the bay doors closed and that the custom tuning would be done elsewhere, probably in Brookfield.

When asked what their hours of operation would be, Mr. Dolson said that they were planning on Monday through Saturday from 10:00 a.m. to 6:00 p.m. On Sunday, they will coordinate their hours of operation with the church services.

Mr. DiPentima asked about the retail hours of operation and Mr. Dolson said that the retail portion of the business will be open 7 days a week and the repair business will only be open Monday – Saturday. Mr. Murray asked if they would be open for business before noon on Sunday and Mr. Dolson said that they would not.

Mr. DiPentima asked the applicant if he would be open to restrictions of hours of operation as a condition of approval and Mr. Dolson replied that he would. Mr. Murray commented that this approval would be contingent on DMV approval. Mr. Dolson explained that before he can submit his application to the DMV, he needed ZBA approval. When asked whether or not he would require Torrington Area Health District approval, Mr. Dolson said that the recovered oil would be used to heat the building and that the liquids from radiators would have to be disposed of according to the environmental requirements.

Mr. Murray asked Mr. Dolson if there would be any additional lighting. Mr. Dolson replied that there is security lighting in the lot.

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Mr. DiPentima asked how many cars will be on the lot at any given time. Mr. Dolson replied that there would be 1 – 3 vehicles and 4 or 5 motorcycles.

Mr. DiPentima asked Mr. Dolson if he would be selling motorcycle parts as part of the retail business and Mr. Dolson said that he would not as most of the parts are customized and special ordered.

Mr. DiPentima asked Mr. Dolson if they would be storing any vehicles and he replied that the only vehicles on the lot would be those they are working on.

Mr. DiPentima asked Mr. Dolson about signage. Mr. Dolson replied that they would be using the existing post for new signage. Ms. Hayes advised Mr. Dolson that they would have to appear before the Architectural Review Board for the approval of the sign.

Mr. DiPentima asked if they planned on making any changes to the exterior of the building and Mr. Dolson said no.

Mr. Noneman asked about the apartments in the building and Mr. Dolson said that there were two apartments and one is currently rented.

Mr. Downes asked if there were going to be other activities and Mr. Dolson said no.

Mr. DiPentima asked when they planned on opening and Mr. Dolson said they were hoping to open sometime around Christmas.

Mr. DiPentima asked if Mr. Dolson was anticipating any problems with motorcycle traffic. Mr. Dolson replied that he did not; as a matter of fact, he felt that this business would give those businesses on Main Street a break by lessening the amount of motorcycle traffic and noise.

Having no further questions for the applicant, Mr. DiPentima asked for comments from the audience. Ms. Carlee Rochovansky addressed the Board and advised them that she buys and sells classic cars and leases the basement of the building along with two bays on the main floor. Mr. DiPentima confirmed that Ms. Rochovansky was part of the application.

Mr. DiPentima asked her if she has any problem with the restrictions that were discussed. Ms. Rochovansky replied that they would not affect her and that she will only have a couple of cars in the showroom.

Mr. Hoffman addressed the hours of operation and asked the Board if they thought opening at 10:00 a.m. was realistic as normal business hours are usually 9 to 5 or 9 to 6. He suggested that the hours of operation be adjusted to 8 a.m. to 6 p.m. during the week; 9 a.m. or 10 a.m. to 5:00 p.m. on Saturday; and repairs after church services on Sunday. Mr. Dolson said that there will be no repairs on Sunday and only the retail would be open.

Mr. Murray expressed concern regarding the exterior lighting and it was suggested that it be placed on a motion detector. Mr. DiPentima expressed concern regarding the storage of oil and Mr. Dolson replied that he would have to be in compliance with his DMV license.

Having no other comments, Mr. DiPentima closed the hearing at 7:34 p.m.

6) Close Hearing. Brief Recess

There was no brief recess.

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7) Reconvene Meeting. Action on Appeal(s) Heard

Mr. Van Valkenburg moved to approve Application #05-15, Iron Horse Customs, LLC, for Cynthia M. and Wayne C. Gustafson, Trustees, 21 Bridge Street, Certificate of Approval for Motor Vehicle Sales, Services and Repair Uses, Map 19 Block 13 Lot 10 with the following conditions:

- *The hours of operation for retail and repair will be Monday through Friday from 10:00 a.m. to 6:00 p.m.*
- *The hours of operation for retail and repair on Saturday will be 10:00 a.m. to 5:00 p.m.*
- *The hours of operation for retail only on Sunday will be 10:00 a.m. to 5:00 p.m.*
- *All the conditions imposed by the DMV and DEEP for the handling of toxic waste will have to be complied with.*
- *All appropriate State and Federal licensing must be maintained.*
- *Any additional lighting for security must be downward in nature, can remain on until 11:00 p.m. after which time they would be switched to motion detecting.*
- *There will be no additional signage.*

Ms. Hayes reread the conditions and during discussion the closing hours were reviewed. Mr. Hoffman said that he did not think it would be fair assigning a closing time for retail sales when other stores do not have closing times. He suggested not including the retail hours in the conditions. Mr. DiPentima asked the applicant if they would be selling motorcycle parts. Mr. Dolson replied that they would be selling accessories. Mr. Murray said that he feels the retail hours should be included and expressed concern about the noise that the motorcycles make and the fact that the shop is located in a mostly residential neighborhood. Mr. Dolson said that he has no problem with the repair hours, but would like to extend the retail sales time constraint. Ms. Hayes suggested that they not regulate the retail hours since no other retail establishment has that condition. She asked Mr. Murray if that would be acceptable to him. He replied that it is still a residential area and expressed concern about noise disruption to church services. Mr. Murray continued that he understands that the motorcycles cause noise disruption on Main Street, but providing a retail establishment next to the church and in a partial residential area will attract them; that is why he would like to see some sort of controls placed on the retail hours of operation. Mr. Hoffman asked if the Board could legally place these restrictions and Mr. DiPentima said that he did not think it can be done. Ms. Bisenius said that it is a mixed neighborhood and that this use was pre-existing. Mr. Murray said that he understands that the applicant wants to be a good neighbor but the Board needs to be concerned with the noise which has been a hot topic for the Town for some time.

As a result of the discussion, the motion was amended to read:

- *The hours of operation for repair will be Monday through Friday from 8:00 a.m. to 6:00 p.m. and Saturday from 10:00 a.m. to 5:00 p.m.*
- *All the conditions imposed by the DMV and DEEP for the handling of toxic waste will have to be complied with.*
- *All appropriate State and Federal licensing must be maintained.*
- *Any additional lighting for security must be downward in nature and can remain on until 11:00 p.m. after which time they are required to be switched to motion detecting mode.*
- *There will be no additional signage.*

Mr. Downes seconded the amended motion and the motion carried unanimously.

The meeting reconvened at 7:54 p.m.

8) Old Business

No action taken.

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9) New Business

9.1. Approval of 2016 Regular Meeting Schedule

Mr. Van Valkenburg moved to approve the 2016 Regular Meeting Schedule as presented. Mr. DiPentima seconded and the motion carried unanimously.

10) Communications

10.1. Financial update – July through September, 2015.

No action taken.

10.2. *Connecticut Federation of Planning and Zoning Agencies Quarterly Newsletter*, Fall 2015.

No action taken.

11) **Executive Session. Pending Litigation: Mauri v Town of Kent, Docket No. LLI-CV-14-6009906-S in Litchfield Superior Court. Discussion of strategy and negotiations with legal counsel.**

At 7:55 p.m., Mr. Murray moved to enter into Executive Session. Pending Litigation: Mauri v Town of Kent, Docket No. LLI-CV-14-6009906-S in Litchfield Superior Court. Discussion of strategy and negotiations with legal counsel. Mr. Downes seconded and the motion carried unanimously.

The Board came out of Executive Session at 8:14 p.m.

12) Open session involving discussion and possible action.


Mr. DiPentima suggested that Ms. Hayes invite Attorney Zizka to the January meeting in order to discuss the pending litigation.

No action taken.

13) Adjourn

Ms. Bisenius moved to adjourn at 8:15 p.m. Mr. Hoffman seconded and the motion carried unanimously.

Respectfully submitted,


Donna M. Hayes
Secretary/Clerk

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