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By Darlene Brady at 12:41 pm, Feb 16, 2021

**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

FEBRUARY 11, 2021 REGULAR MEETING MINUTES
VIA ZOOM CONFERENCE

The Town of Kent Planning and Zoning Commission held a regular meeting on Thursday, **February 11, 2021 at 7:00 p.m.**

1. CALL TO ORDER

Chair Winter called the meeting to order at 7:03 p.m.

2. ROLL CALL AND APPOINTMENT OF ALTERNATES IF REQUIRED

Commissioners Present: Matthew Winter, Darrell Cherniske, Anne McAndrew (8:41)
Alice Hicks, Marc Weingarten, David Birnbaum

Staff Present: Donna Hayes, Land Use Administrator and Tai Kern, Land Use Clerk

David Birnbaum was elevated to voting status.

3. READING AND APPROVAL OF MINUTES:

3.A. Regular Meeting Minutes of January 14, 2021

Mr. Weingarten moved to approve the Regular Meeting Minutes of January 14, 2021. Mr. Cherniske seconded and the motion carried unanimously.

3.B. Special Meeting Minutes of January 27, 2021.

Mr. Weingarten moved to approve the Special Meeting Minutes of January 27, 2021. Mr. Cherniske seconded and the motion carried unanimously.

4. PUBLIC COMMUNICATIONS (ORAL):

N/A

5. OLD BUSINESS:

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

- 5.A.1.** Application #'s 81-20C and 82-20SP, Campland, Inc., 70 Kenmont Road, Map 15 Block 22 Lot 106, after the fact construction of two waterside sheds for weather protection.

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Donna Hayes reported that the IWC has approved this project. She reviewed the file and found no record stating the parameters under which they are operating. The cabins require ZBA approval for any changes. Atty. Manasse noted that they are well below the number of campers permitted. He stated that everything is in compliance with the Regulations. He reported that the 2008 survey shows all of the buildings on all of the property.

Mr. Weingarten moved to close the public hearing Application #'s 81-20C and 82-20SP, Campland, Inc., 70 Kenmont Road, Map 15 Block 22 Lot 106, after the fact construction of two waterside sheds for weather protection. Mr. Cherniske seconded and the motion carried unanimously.

Mr. Weingarten moved to approve Application #'s 81-20C and 82-20SP, Campland, Inc., 70 Kenmont Road, Map 15 Block 22 Lot 106, after the fact construction of two waterside sheds for weather protection. Mr. Cherniske seconded and the motion carried unanimously.

5.B. DISCUSSION AND POSSIBLE DECISION

5.B.1. Planning schedule for the rewrite of the Subdivision Regulations dated June 1, 1995.

Mr. Weingarten moved to continue the planning schedule for the rewrite of the Subdivision Regulations until the next meeting. Mr. Cherniske seconded and the motion carried unanimously.

6. NEW BUSINESS:

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

6.A.1. Application #'s 02-21SP and 03-21C, AEC Solar, LLC for Marvelwood School, 470 Skiff Mountain Road, Map 7 Block 16 Lot 1, installation of ground mounted solar PV system to service the Dining Hall.

6.A.2. Application #'s 04-21SP and 05-21C, AEC Solar, LLC for Marvelwood School, 473 Skiff Mountain Road, Map 7 Block 17 Lot 1, installation of ground mounted solar PV system to service the Education & Athletics Buildings.

Chair Winter opened the public hearing at 7:27 p.m. for both agenda items 6.A.1 and 6.A.2 to be heard concurrently. He read the legal notices aloud.

Donna Hayes reviewed the proposal to install solar units. She noted that TAHD approval has been received and that this is not within the HorizonLine. It was confirmed that the activity would be over 200 from the wetland regulated area.

Patrick Lewis came forward and reported that one of the arrays will be over the existing tennis court and one across the street in the grass area. There will be a 7-foot chainlink fence around them for safety purposes. It was agreed the fence would be added to this application. Mr. Lewis noted that there is existing vegetation around the site across the street that will serve as screening. Mr. Winter questioned whether the existing vegetation would be adequate screening.

Chair Winter looked for comments or questions from the public or Commission.

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Mr. Weingarten moved to close the public hearing for Application #s 02-21SP and 03-21C, AEC Solar, LLC for Marvelwood School, 470 Skiff Mountain Road, Map 7 Block 16 Lot 1, installation of ground mounted solar PV system to service the Dining Hall and Application #s 04-21SP and 05-21C, AEC Solar, LLC for Marvelwood School, 473 Skiff Mountain Road, Map 7 Block 17 Lot 1, installation of ground mounted solar PV system to service the Education & Athletics Buildings. Mr. Cherniske seconded and the motion carried unanimously.

Mr. Weingarten moved to grant waiver for Application #s 02-21SP and 03-21C, AEC Solar, LLC for Marvelwood School, 470 Skiff Mountain Road, Map 7 Block 16 Lot 1, installation of ground mounted solar PV system to service the Dining Hall and Application #s 04-21SP and 05-21C, AEC Solar, LLC for Marvelwood School, 473 Skiff Mountain Road, Map 7 Block 17 Lot 1, installation of ground mounted solar PV system to service the Education & Athletics Buildings. Mr. Cherniske seconded and the motion carried unanimously.

Mr. Weingarten moved to approve Application #s 02-21SP and 03-21C, AEC Solar, LLC for Marvelwood School, 470 Skiff Mountain Road, Map 7 Block 16 Lot 1, installation of ground mounted solar PV system to service the Dining Hall. Mr. Birnbaum seconded and the motion carried unanimously.

Mr. Weingarten moved to approve Application #s 04-21SP and 05-21C, AEC Solar, LLC for Marvelwood School, 473 Skiff Mountain Road, Map 7 Block 17 Lot 1, installation of ground mounted solar PV system to service the Education & Athletics Buildings. Mr. Cherniske seconded and the motion carried unanimously.

6.B. DISCUSSION AND POSSIBLE DECISION

6.B.1. Paul Szymanski, Arthur H. Howland, LLC, proposed changes to Section 5, Conservation Development of the Subdivision Regulations and Section 3160, Village Residential Conservation Development Overlay District of the existing Zoning Regulations.

Glenn Chalder came forward and reported that he reviewed Mr. Szymanski's proposal for changes. He suggested a simpler approach to allow this sort of activity by Special Permit in the Village Residential District, but will not refer to this as a Conservation Development. He explained that zone or text change is not often used for a specific development. A brand new zoning district may be overkill.

Mr. Winter noted that there are a few other opportunities for such a proposal north on Route 7. He does not feel this would be merely for one project. Mr. Chalder explained that if the Commission believes this could be replicated on other sites, it could be done as a Special Permit. This could be added under Section 3124.10 and can refer to Section 6700.

The members were in agreement with this approach. Mr. Szymanski agreed to draft the proposed change using this approach for the Commission's review. Chair Winter reminded Mr. Szymanski that VR1 and VR2 will be connected to sewer and that roads should be designed to allow emergency access.

Mr. Weingarten moved to hear item 6.B.3. Mr. Cherniske seconded and the motion carried unanimously.

6.B.3 Request for determination from the Commission or conversion of 9,11 and 13 Railroad Street to multi-family residential use.

The group reviewed the change to Section 4124 of the Zoning Regulation per Glenn Chalder's suggestions as part of this pre application review:

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Adaptation of one or more existing buildings and/or structures for residential use, including multi-family residences, subject to the following provisions:

- a. There shall be at least 4,000 square feet of lot area for each dwelling unit.
- b. No proposed adaptation nor any additional associated development shall be approved unless connected to the Town sanitary sewer system.
- c. Adequate provision shall be made for the collection and disposal of garbage and refuse and such facilities shall be in conveniently located areas, enclosed and visually screened from view.
- d. Adequate arrangements shall be made for parking.

The Commission and applicant were in agreement with this proposed regulation change. This is something that would have to be presented by the applicants should they decide to go forward.

Anne McAndrew arrived at 8:41 pm and was elevated to voting status

- 6.B.2.** Proposal by Gina Olson, owner of Chestnut Woodworking & Antique Flooring Co. and Tarot in Thyme, for outdoor shopping and monthly music events, 31 North Main Street, Map 19 Block 14 Lot 1.

Sarah Marshall and Stacy Marcin, members of the Chamber of Commerce, came forward with Gina Olson. Ms. Olson reiterated the proposal for outdoor shopping discussed at the last meeting. The group agreed that this should be approached as a COVID related proposal with regard to the relaxation of Section 4131.4.b. during Governors Executive Orders. Discussions and decisions for other business proposals should be on a case-by-case basis. Ms. Olson explained that not everyone will feel comfortable returning to businesses after the orders are lifted and she would like to plan this beyond the ending of the orders.

Language for this proposal will be drafted and put before the Commission's for approval at the next meeting.

It was determined that the type of music being proposed is not something the P&Z Commission regulates.

- 6.B.4.** Modification to permits #15-13C and Barry Labenz for 33 Camps Road, LLC; modification to include the construction of a 19 'x 23 'shed over an existing concrete pad, Map 17 Block 28 Lot 30;

David Birnbaum recused himself

Donna Hayes explained that she did not consider this a significant impact; therefore, it does not require a public hearing.

Barry Labenz came forward and explained that this is an important staging area; therefore, they are requesting this enclosed shell of a shed to be flush against the building. The brewery garage door will be inside the shed, but not covering the door for the public. The motion lights on the garage doors would be moved over to outside the shed. Lighting will not be visible and will face down as much as possible. The siding will be identical to that of the brewery. There will be lighting inside the shed.

Mr. Weingarten moved to approve Modification to permits #15-13C and Barry Labenz for 33 Camps Road, LLC; modification to include the construction of a 19 x 23 shed over an existing concrete pad, Map 17 Block 28 Lot 30. The motion was seconded by Mr. Cherniske and the motion carried unanimously.

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Mr. Birnbaum was reseated.

- 6.B.5.** Modification to permit #72-07C; Kent Green, LLC, 1 Kent Green Blvd., Map 19 Block 42 Lot 8: modification to include new sign for "Sophie's Restaurant & Bakery".

It was noted that this is part of the Alternative Signage Program; therefore, requires a review of the Commission. Donna Hayes reported that the proposed sign will be the same size and location as that of the previous bakery

Mr. Birnbaum moved to approve Modification to permit #72-07C; Kent Green, LLC, 1 Kent Green Blvd., Map 19 Block 42 Lot 8: modification to include new sign for Sophie s Restaurant & Bakery". The motion was seconded by Cherniske and the motion carried unanimously.

- 6.B.6.** Temporary Modification to Application 11-16C, 45 North Main Street, Map 19 Block 15 Lot 14, Kent Coffee & Chocolate for Kevin Hart & Quarter Mile, LLC: Extension of modification to allow drive-thru window during COVID-19 pandemic.

Donna Hayes reported that this extension will expire any day now. Sharon Songal noted that townspeople have been signing a petition to have this window stay open permanently. The group agreed that this should run concurrent with the Governor's Orders.

Mr. Weingarten moved to approve Temporary Modification to Application 11-16C, 45 North Main Street, Map 19 Block 15 Lot 14, Kent Coffee & Chocolate for Kevin Hart & Quarter Mile, LLC: Extension of modification to allow drive-thru window during COVID-19 pandemic until the termination of the Governor's State of Emergency with regard to the COVID pandemic. The motion was seconded by Mr. Cherniske and the motion carried unanimously.

It was clarified that the reference made to "petition" at a previous meeting was to "petition" the Commission for a change to the Regulation. Ms. Songal agreed to pursue this option.

- 6.B.7.** Scheduling of public hearing for Proposed Change to the Zoning Regulations – Private Burial Ground

Donna Hayes reported that she does not have a formal application. She has received two requests for a private burial ground and found Sherman has a regulation for this and that is what she used to draft this proposal after discussing it with the State Health Dept. She explained this is private and cannot be sold to the public and easements must be created on the property for access. Surveys, locations, and setbacks all have to be in place.

The group agreed to further discuss and then consider scheduling a public hearing.

- 6.B.8.** Modification to permit #62-15C, Kent Center, LLC, 9 Maple Street, Map 19 Block 42 Lot 35; modification to include two signs (one projecting and one wall) for Woodford's General Store.

It was noted that this is part of the Alternative Signage Program. It was agreed that this request is permitted.

Mr. Weingarten moved to approve the Modification to permit #62-15C, Kent Center, LLC, 9 Maple Street, Map 19 Block 42 Lot 35; modification to include two signs (one projecting and one wall) for Woodford's General Store. The motion was seconded by Mr. Cherniske and carried unanimously.

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7. STAFF REPORT:

N/A

8. REPORT OF OFFICERS AND COMMITTEES:

8.A. Subdivision Regulation Sub-Committee -.

Previously tabled.

9. OTHER COMMUNICATIONS AND CORRESPONDENCE:

9.A. Administrative Permits and Certificates of Compliance – January 11, 2021 to February 5, 2021 reviewed

9.B. Connecticut Federation of Planning and Zoning Agencies Quarterly Newsletter, Winter 2021. reviewed

10. **EXECUTIVE SESSION: Pending Litigation: High Watch Recovery Center, Inc. v Town of Kent Planning and Zoning Commission in Superior Court, Judicial District of Litchfield at Torrington dated November 27, 2020. Discussion of strategy and negotiations with legal counsel.**

Donna Hayes noted that she has nothing new to report.

11. Open session involving discussion and possible action on Pending Litigation: High Watch Recovery Center, Inc. v Town of Kent Planning and Zoning Commission in Superior Court, Judicial District of Litchfield at Torrington dated November 27, 2020.

The Commission is willing to follow the recommendations of the Attorney.

ADJOURNMENT

Mr. Weingarten moved to adjourn at 10:02 p.m. Mr. Cherniske seconded and the motion carried unanimously.

Respectfully submitted,

Tai Kern

Tai Kern, Land Use Clerk