

TOWN OF KENT
PLANNING AND ZONING COMMISSION
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August 13, 2020 REGULAR MEETING MINUTES
VIA ZOOM CONFERENCE

The Town of Kent Planning and Zoning Commission held a regular meeting on Thursday, August 13, 2020 at 7:00 p.m.

1. CALL TO ORDER

Chairman Winter called the meeting to order at 7:09 p.m.

2. ROLL CALL AND APPOINTMENT OF ALTERNATES IF REQUIRED

Commissioners Present: Matt Winter, Karen Casey, Adam Manes, Alice Hicks

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

RECEIVED FOR RECORD
KENT TOWN CLERK
2020 AUG 13 A 11:54
BY *D. Hayes*
TOWN CLERK

3. READING AND APPROVAL OF MINUTES:

3.A. Special Meeting Minutes of July 9, 2020.

Mr. Manes moved to approve the Special Meeting Minutes of July 9, 2020. Ms. Hicks seconded and the motion carried unanimously.

3.B. Regular Meeting Minutes of July 9, 2020.

Mr. Manes moved to approve the Regular Meeting Minutes of July 9, 2020. Ms. Casey 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.B. DISCUSSION AND POSSIBLE DECISION

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

Tabled

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6. NEW BUSINESS:

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

- 6.A.1. Modification to Application # 45-17SP, 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. Modification to include an amendment to condition #16 of the Resolution of Approval adopted by the Kent Planning and Zoning Commission October 30, 2017; “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.”**

Chairman Winter read the notice of public hearing for the record and opened the public hearing at 7:15 p.m. Donna Hayes noted that the draft language proposed as a replacement for condition #16 was distributed to the members and she read it aloud for the group. She reminded the members that she provided minutes from the original approval discussion so they understand how they came to the original decision.

Jeff Mirman, Attorney for Birch Hill, discussed how condition #16 might violate labor laws with the requirement to mandate that employees volunteer as a member of the KVFD. This condition would not be seen as entirely free from pressure and coercion and may exclude individuals for employment that may not qualify as a KVFD member. Both of these points violate labor laws.

Adam Manes remembered that this condition derived from the concerns to properly staff the ambulance to respond to calls. Mr. Mirman noted that the proposed contract with a private ambulance should alleviate that concern. Mr. Winter explained that the condition was not intended to coerce employees; however, he understands the concern with violating labor laws. He would be interested in what the KVFD has to say about this. This same proposal seems to have worked for a subsequent applicant.

Ari Raskas noted that he would like to hear KVFD’s Mary Ann VanValkenburg’s opinion regarding this matter. He also reminded the group that the level of staff is much higher than the subsequent applicant, which should also ease the concerns. Brad Greenstein, COO of Birch Hill, shared a Power Point presentation regarding staffing and their qualifications. Ari Raskas reiterated that, in addition, they will contract with an outside ambulance company and will give KVFD opportunities to educate the staff with opportunities to volunteer.

Mary Ann Van Valkenburg, Ambulance Chief, thanked Ari Raskas for the Power point and for allowing them to share volunteer opportunities with Birch Hill’s employees as they are in need of volunteers. She explained that Birch Hill having employees to respond and assist with transport would be helpful to the KVFD. She does hope Birch Hill will contract with a private ambulance for non-911 calls. If the call volume increases, it will put pressure on the ambulance. Ari Raskas confirmed for her that all employees are trained at the level or greater than an EMT. Brad Greenstein explained that all emergency personnel would meet prior to opening to agree on what constitutes different levels of emergencies and how everyone would work together. Communication would continue to in order to make this successful.

Eric Epstein came forward and explained that Kent would not be involved in dispatch with regard to the outside service. He explained that they are at a tipping point where they cannot get too many more calls. They were depending on Birch Hill’s staffing to handle the additional calls.

Jean Speck, First Selectman, explained that the system is built to assure that every person who dials 911 gets care. She described the emergency and non-emergency decision process. Eric Epstein noted that the other facilities that implemented this program have been using this process and the KVFD has been tracking this. They could share these numbers at the next meeting. Adam Manes noted that these numbers would be important in making this decision.

Mr. Winter questioned whether there was any way to circumvent violating the labor law. Attorney Mirman explained that it is the mandate and discriminatory nature that is the problem; therefore, if employees could be encouraged to volunteer on their own it would be ideal. Given that the nurses and doctors on staff will have the qualification of an EMT, they will have an appreciation of identifying an emergency.

It was agreed that the KVFD and Birch Hill would have a discussion regarding the details of this matter.

Mr. Manes moved to continue hearing for Modification to Application # 45-17SP, 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.. Ms. Casey seconded.

Discussion: Attorney Fisher noted that public input tonight would be welcome. Chairman Winter opened the floor to the public:

-Patricia Oris asked that Kent's attorney's be involved with regard to labor law questions and to draft his own language. She questioned whether a financial payment to the KVFD from Birch Hill should be made in way of a stipend. Ari Raskas advised that they believe in charity and giving back to the community, but could not commit to a payment to the KVFD at this time.

-Dan Smith of Mountainside explained that in their experience this is a proposal that works and this does seem like a plan in a positive direction.

-Suzanne Charity noted her concerns with the volume of emergencies with no physician on staff 24/7. Ari Raskas advised that there is a robust medical staff as noted in the presentation. Brad Greenstein discussed the extensive staffing and patient prescreening process.

The motion carried unanimously.

6.A.2. Application #'s 42-20C and 43-20SP, John and Gerri Gleason, 12 Halls Lane, Map 9 Block 22 Lot 43, conversion of existing garage to residential dwelling unit.

Chairman Winter read the legal notice and opened the public hearing at 8:36 p.m.

Donna Hayes reported that the Gleasons would like to convert the existing garage to an accessory dwelling on the second floor. The TAHD has approved with the requirement of additional septic.

John Gleason came forward explained that they would like to add some additional space for their kids for now or future use. They have submitted a plan that has been approved by TAHD. The bottom of the building would remain a garage and the 2nd floor would be an apartment for their children.

Chairman Winter discussed the term "residential dwelling". Donna Hayes read the regulations for Accessory Dwelling Unit and confirmed that this proposal fits this description and will be referred to as such. The Regulation for Detached Accessory Residential Unit under Section 32.34.8 was discussed.

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Mr. Gleason confirmed that one of the bays will be used to satisfy a parking space and there will be provisions for another one as there is ample space for parking. The stairway to the apartment will be interior. The only change to the exterior will be an entrance door and a light above it.

Chairman Winter looked for public comment. There was none.

Mr. Manes moved to close public hearing on Application #'s 42-20C and 43-20SP, John and Gerri Gleason, 12 Halls Lane, Map 9 Block 22 Lot 43, conversion of existing garage to residential dwelling unit. Ms. Casey seconded and the motion carried unanimously.

Mr. Manes moved to approve Application #'s 42-20C and 43-20SP, John and Gerri Gleason, 12 Halls Lane, Map 9 Block 22 Lot 43, conversion of existing garage to detached accessory residential dwelling unit with the stipulation that approval from TAHD is received and the plan will be noted to satisfy parking regulations with one space within the garage and one on the site. Ms. Hicks seconded.

Discussion: Ms. Hicks questioned whether the structure is in the front yard. Mr. Winter noted that he is certain it is; however, it is a mute point as it is pre-existing.

The motion carried unanimously.

6.B. DISCUSSION AND POSSIBLE DECISION

- 6.B.1.** Modification to Application #46-17C, Kent Realty, LLC, 46 Maple Street, operation of a drug and alcohol rehabilitation center, Map 4 Block 12 Lot 6. **Modification to include: removal of underground LP storage tank; relocation of existing generator; installation of additional lighting; repaving of existing lower parking lot.**

Donna Hayes reported that Mike Zizka confirmed that the 2017 site plan would be the one in question for modification tonight as it is the site plan most currently approved. She noted that she had viewed the site, has no objections, and feels their proposal make sense.

Ari Raskas introduced Brian Baker of Civil One who shared the proposed site plan for review with the group. The proposal is to re-stripe the parking area, repave the northern parking spaces, and pavement overlay of the access driveway. The plan is to remove the fuel tank and replace it with a new generator. There will be a sound enclosure and it will be far from the property line. Noise will be modest and any testing will be done after 9:00 a.m. They would like to add one LED light and pedestrian walkway lighting. Mr. DuPre described the location of diesel belly tank as under the generator. The sound level will be that of a washing machine. The generator specifications will be forwarded for the record.

Mr. Manes moved to approve Modification to Application # 45-17SP, 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. Modification to include: removal of underground LP storage tank; relocation and replacement of existing generator; installation of additional lighting; repaving of existing lower parking lot. Ms. Casey seconded and the motion carried unanimously.

- 6.B.2.** Discussion on Section 10100.3 – re: merger of existing sub-division lots.

Donna Hayes reported a merger of lots was done outside of Planning and Zoning. The representing attorney advised that P&Z review was not required as the merger was making the subdivision smaller. She referenced section

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10100.3 noting that the Regulations require P&Z review. The attorney for the owner disputed the map requirement due to the cost to the client. The merge was filed in the Town Clerks Office via a Schedule A description.

The Commission confirmed that a map and Planning and Zoning approval is required for a lot line revision per the existing Regulations. The Commission asked that Donna Hayes communicate this to the property owner's attorney, the Town Clerk, and the Assessor.

- 6.B.3.** Application #48-20C, Steven Kalur for Ciara Burnham, 37 Flat Rock Road, Map 11 Block 40 Lot 9, construction of 20' x 26' detached garage and associated site work/retaining wall in HorizonLine Conservation District.

Donna Hayes reported that there was a storage barn that was converted to a home office on this site. They would like to build a new barn for their garden tools. The group reviewed the site map. She noted that the property in its entirety is in the horizon line. They will not be cutting down any trees. Chairman Winter noted that he would like to review the architectural plans and elevations prior to approval. The group discussed whether this proposed structure could be seen from the roadway.

The members agreed that the site should be viewed prior to approval. Additionally, on future horizon line applications they would like a broader site plan with elevations.

Mr. Manes moved to table Application #48-20C, Steven Kalur for Ciara Burnham, 37 Flat Rock Road, Map 11 Block 40 Lot 9, construction of 20' x 26' detached garage and associated site work/retaining wall in HorizonLine Conservation District. The motion was seconded by Ms. Casey and carried unanimously.

7. STAFF REPORT:

7.A. Food truck at the Kent Barns, August 7, 2020.

Donna Hayes reported that she received a message from the Selectman's Office that a food truck was going to be made available by an organization to serve the people of the town at the Kent Barns. She contacted the organization and advised that they were not permitted. The organization advised that they would be doing it anyways. Torrington Area Health was alerted and advised they were not aware and shut down the truck. Donna Hayes reported that the location was blocking emergency access. The fire marshal reported that he would have had the truck towed had he been aware of its location.

Alice Hicks questioned whether Kent Barns was contacted. She reported that she contacted their attorney as they would be the party addressed in the Cease and Desist even though a separate organization was conducting the violation on their property.

Chairman Winter confirmed that food trucks are not permitted at all in the Town of Kent. He apologized on behalf of the town for any nonsense she was subjected to for administering the regulations. She explained that had she been properly contacted perhaps they could have worked out some way to make this work within the Regulations. The Town can consider changing the regulations should they choose. The hot dog and seafood truck were grandfathered at the location that they have been operating. The hot dog truck was denied at one point when they requested to relocate. She reported that she consistently receives requests for food trucks and must consistently deny due to the regulations. The Commission was in agreement with the decision regarding this matter and completely supports their ZEO. It was noted that most likely there would have also been complaints if this was permitted. Donna Hayes stated that everyone has been and is being treated equally.

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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 – July 13, 2020 to August 7, 2020. Confirmed received.

9.B. Connecticut Siting Council’s Notice of Public Hearing for Docket #488 – Homeland Towers, LLC and New Cingular Wireless PCS, LLC d/b/a AT&T application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility locate at one of two sites: Kent Tax Assessor ID #M10, Block 22 Lot 38 Bald Hill Road or 93 Richards Road, Kent, Connecticut.

Chairman Winter has been present for the endless testimony regarding this matter and will return for the continuation. He will report back to the Commission once he is able to give his testimony.

9.C. 2019 Annual Monitoring Report; Natural Resource Management Plan; Bull’s Bridge Golf Club, dated June 2020.

Chairman Winter asked that this remain on the agenda for the opportunity to further review.

Chairman Winter requested that Donna Hayes review Regulation 3231.5 regarding farm stands. He questioned whether a farm stand not related to a farm needs to come to the Commission.

ADJOURNMENT

Mr. Manes moved to adjourn at 10:21 p.m. Ms. Casey seconded and the motion carried unanimously.

Respectfully submitted,

Tai Kern
Tai Kern, Land Use Clerk