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By Darlene Brady at 10:29 am, Jun 12, 2023

**TOWN OF KENT**  
**PLANNING AND ZONING COMMISSION**  
41 Kent Green Boulevard, P.O. Box 678, Kent, CT 06757

**REGULAR MEETING MINUTES**

The Planning and Zoning Commission held a regular meeting via zoom on Thursday, June 8, 2023 beginning at 7:00 p.m.

**1. CALL TO ORDER**

Mr. Winter called the meeting to order at 7:02 p.m.

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

Commissioners Present: Matthew Winter, Chairman; Karen Casey, Shelby Green, Alice Hicks, Anne McAndrew, Anthony Palumbo

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

Mr. Winter elevated Ms. McAndrew and Mr. Palumbo to voting status.

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

**3.A. May 11, 2023 Regular Meeting Minutes.**

*Ms. Hicks moved to approve the May 11, 2023 Regular Meeting Minutes as presented. Ms. Casey seconded and the motion carried unanimously. After the approval, Mr. Winter asked that the motion on page 4, under agenda item 5.B.2., be changed to reflect a tie vote. It was noted during discussion that Mr. Winter should have made this request prior to the approval of the minutes. It was also noted that Ms. Kern will research the actual vote for discussion at next month's meeting. Ms. Hicks moved to withdraw her motion and Ms. Casey moved to withdraw her second. .*

*Ms. Hicks moved to table the approval of the May 11, 2023, Regular Meeting Minutes until the next meeting. Ms. Casey seconded and the motion carried unanimously.*

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**3.B. May 11, 2023 Special Meeting Minutes**

No comments.

*Ms. Hicks moved to approve the May 11, 2023 Special Meeting Minutes as presented. Ms. Casey seconded and the motion carried unanimously.*

**3.C. May 18, 2023 Special Meeting Minutes.**

*Ms. Hicks moved to approve the May 18, 2023 Special Meeting Minutes as presented. Ms. Casey seconded and the motion carried unanimously.*

**4. PUBLIC COMMUNICATIONS (ORAL):**

No action taken.

**5. OLD BUSINESS:**

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

- 5.A.1.** Applications 43-23SP and 44-23C, Cheryl Gould (Jason Dismukes), 147 Treasure Hill Rd, Map 17, Block 32, Lot 23, construction of a detached accessory dwelling unit. (Close public hearing by June 15 or extension)

Mr. Winter continued the public hearing beginning at 7:11 p.m.

Ms. Kern reported that she received the waivers requests for items 6, 10, 11 and 13 from Mr. Dismukes. She continued that he also provided pictures of the shed in question which confirmed that it is, indeed, a shed for storage and should not be considered a dwelling.

Mr. Dismukes reiterated that the application is to construct a detached dwelling unit on approximately 7 acres. Approval has been received from TAHD for the new dwelling and approval was received from Inland Wetlands as well.

Mr. Winter asked for comments from the general public; there was none. There were no comments from the Commission.

Mr. Winter asked for further comments from Mr. Dismukes on the tree removal. He responded that there will be one tree outside of the HorizonLine (HL) and closest to the proposed dwelling that will come down and one 24" oak within the HL that will be protected and not be removed. Mr. Winter asked for confirmation on the removal of trees within HL that will need to be removed in order to provide the proper grading. Mr. Dismukes said that, in line with last month's discussion, it was determined that it could be saved. Mr. Winter said that his confusion comes from google earth mapping and will take Mr. Dismukes at his word that no other trees would be removed during the grading and that the 24" oak tree within the HorizonLine will be protected and saved.

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Based on the above conversation, Mr. Winter confirmed that the Commission had looked at the requirements of the HorizonLine regulation as well as the site plan requirements.

Mr. Winter asked if the Commission would like to ask for any other information with regard to the requested waivers before closing the public hearing. There were none.

*Ms. Hicks moved to close the public hearing at 7:21 p.m. Ms. Casey seconded and the motion carried unanimously.*

*Mr. Hicks moved to approve the waivers as discussed during the public hearing. Ms. Casey seconded and the motion carried unanimously.*

*Ms. McAndrew moved to approve Applications 43-23SP and 44-23C, Cheryl Gould (Jason Dismukes), 147 Treasure Hill Rd, Map 17, Block 32, Lot 23, construction of a detached accessory dwelling unit. Ms. Casey seconded and the motion carried unanimously.*

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

**5.B.1. Application withdrawn** - Application #s 22-23SP and 23-23C and request for modification to 43-15SP, 33 Camps Rd., LLC., 33 Camps Rd, Map 17, Block 28, Lot 30, to allow for farm store, outdoor tasting room, standard pours, sale of beer in sealed containers, events and entertainment.

The Commission acknowledged the withdrawal of the application.

**5.B.2.** Application 48-23C, Jacob & Alexandra Kling (Pete Hanby), 32 Spectacle Ridge Rd, Map 16, Block 25, Lot 36, screen porch, new pool, renovation of 2 story house in the Horizon Line. (Decision by 7/15/23 or extension)

Ms. Kern advised that the applicant had supplied the information requested by the Commission at the last meeting. Mr. Hanby said that he will submit full size stamped plans to the Land Use Office tomorrow for the record.

Mr. Hanby explained that the lighting will be a typical way-finding light, about 18" tall and will have a cap on it which would project the lighting down. The light is a "warm" light. The sconces on the exterior of the building will be black, downward facing only and will contain a "warm" lamp to light the immediate area. Mr. Hanby then reminded the Commission of the proposed plan as discussed at last month's meeting. Mr. Hanby informed the Commission that there will be 17 trees from 8" to 16" with most being around 12" removed from the property. With regard to the height of the ridgeline, the porch ridgeline is about 12' off the existing floor with the existing house being much taller at approximately 28". The trees to be removed are not visible from any roadway.

Mr. Winter said that it appears that the house is actually placed on the ridgeline and wondered what can be seen from Anderson Road or Kane Mountain Rd. Mr. Hanby said that the back of the property does drop severely but comes back up where the barn is located. The view is of Lake Waramaug and not of

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any roadways. Mr. Hanby assumes that if they cannot see any roadways, then the roadways cannot see the property.

Mr. Winter asked what the footprint of the proposed screen porch was. Mr. Hanby replied that the proposed screened porch was 575 sq. ft and the pool is approximately 17' x 40' with roughly the same amount of patio adjacent to the pool. Mr. Winter asked where the way-finding lighting will be placed. Mr. Hanby said that they would be installed on the way down to the pool area as well as a couple around the perimeter of the pool.

Ms. McAndrew asked for specific numbers. Mr. Hanby said that they do not have a finalized electric plan but he is anticipating 6, 20" high fixtures around the pool. Mr. Winter asked if the number of lights on the house would be increased. Mr. Hanby said that the lights are required to be placed by the doors for a total of 6 exterior lights.

Ms. McAndrew asked what backed up to the pool. Mr. Hanby replied that it is just property and wooded area.

Ms. Hicks asked how the barn is accessed. Mr. Hanby said that the barn is accessed from their property.

Ms. Casey said that some of the properties on Spectacle Ridge Road can be seen during the winter from Anderson Acres and Beardsley Roads. Mr. Hanby said that it is a different story during the winter but did not think the house can be seen from those roads.

Mr. Winter confirmed that all the trees fall beneath the size threshold of the HorizonLine; Mr. Hanby agreed. There are no wetlands on the property. There is an application before Torrington Area Health District. Mr. Winter said that he believes they reviewed the HorizonLine regulation as well as the site plan regulation.

*Ms. Casey moved to approve waivers 6, 10, 11, 12 and 13. Ms. McAndrew seconded and the motion carried unanimously.*

*Ms. Casey moved to approve Application 48-23C, Jacob & Alexandra Kling (Pete Hanby), 32 Spectacle Ridge Rd, Map 16, Block 25, Lot 36, screen porch, new pool, renovation of 2 story house in the Horizon Line. Ms. Hicks seconded and the motion carried with 5 ayes and 1 abstention by Ms. McAndrew.*

## **6. NEW BUSINESS:**

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

No action taken.

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

### **6.B.1. Pre-Application Review, Landrigan Family 2012 Trust, 158 & 160 Ore Hill Rd., Map 18, Block 33, Lot 3, Two lot re-subdivision.**

Mr. Winter advised the Commission that they had received some information on this a couple of meetings ago which is prompting this discussion. Ms. Kern reviewed her staff report and reminded the Commission of the reason for the re-subdivision. Torrington Area Health District and Inland Wetlands have both approved this proposal. There were a couple of requirements that she advised could be waived. The applicant will have to supply a statement regarding the solar energy, it will be a public hearing and it will have to go the COGs for referral since the property in question borders New Milford.

Mr. Neff said that he drew up the site plan but has a couple of questions regarding the proposal. Some of the property is within the Horizonline. In addition, there will not be any construction as a result of this re-subdivision. He asked, if there was no tree cutting or construction, will an application need to be submitted. Mr. Winter referred Mr. Neff to Section 5720.2 and said that he believes the answer would be no. Ms. Kern concurred since there was no development activity proposed.

Mr. Neff said that the lots will be divided into 2 parcels with a conservation easement on the property. In terms of the easement, the property owners also own property in New Milford and identified that there is currently an easement on the border area. It was noted that the owners/agent will contact the easement holder for confirmation and agreement for the easements to abut each other. Mr. Winter asked if the easement is contiguous from Kent to New Milford. Mr. Neff said that it was. Mr. Winter said that it would be great if an agreement could be reached with the existing easement holder. Mr. Neff said that the desire of the owners would be to give the property to their son via the trust that is in place but due to the determination by the Commission's attorney, the property owners have decided to go in the direction of reaching an agreement with the easement holder. Mr. Winter said that based on the advice of their attorney, they would like to see the open space.

Mr. Neff said that it would be a straight forward re-subdivision. He is hoping to get all the information ready for the next meeting. Mr. Winter said that it would be helpful to see what can be waived and Mr. Neff said that he will prepare a letter discussing the waivers. He continued that they are showing 10' contours and the reason for this decision which would be included in his letter attachment to the application. Mr. Winter asked for soil information; Mr. Neff said they are on the plan already. Mr. Neff said that there was a little piece of wetlands on the property and the Inland Wetlands Commission approved it since there will be no disturbance.

Mr. Neff asked if the Commission will be looking for a letter of intent from the conservation easement holder. Mr. Winter said that he would be looking for that prior to the opening of the public hearing.

Mr. Talbot asked about the referral to the COGs. Ms. Kern responded that it should be done 35 days prior to the public hearing. She continued that as soon as the application is received, she will send out the notification to the COGs.

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Ms. Casey said that she thought it was a good plan and it should be fine. There were no other comments from the Commission. Mr. Winter agreed that the overall idea of having housing available for farm workers fits squarely within what is stated in the POCD.

## **7. STAFF REPORT**

### **7.A. Discussion regarding preferred application process**

Mr. Winter said that the discussion on waivers generated another question about the timing of the acceptance of an application that requires a public hearing. The Commission could have a meeting where the special permit is accepted with pre-discussion with the applicants and then opening the public hearing at the next meeting. Ms. Hicks agreed that would be a good way to handle it. Ms. Kern said that many towns have two commissions: one Planning and one Zoning which requires a longer process. Since Kent is a combined commission, the process is faster. Ms. Hicks wanted to confirm that doing this would extend the approval process. Ms. Kern said that this change could make it take as long as 2-3 months.

Mr. Winter suggested that the Commission continue to think about it and plan to make the decision with the full Commission present.

Mr. Palumbo asked if the Commission has ever set a time limit for applicants or the public to speak. Mr. Winter said no, but they ask the people to be succinct with no repetition of comments or questions.

Ms. Hicks asked Ms. Kern if she thought this would be needed in the future. Ms. Kern said that it has been very busy and she was not sure if that would continue.

It was decided to discuss this at next month's meeting.

## **8. REPORT OF OFFICERS AND COMMITTEES**

No action taken.

## **9. OTHER COMMUNICATIONS AND CORRESPONDENCE:**

### **9.A. Administrative Permits and Certificates of Compliance**

The information was received by the Commission.

- 10. EXECUTIVE SESSION: Pending Litigation: The Roberti Family, LLC v Town of Kent, Connecticut and Planning & Zoning Commission of the Town of Kent, Connecticut in the United States District Court for the District of Connecticut filed April 24, 2020. Discussion of strategy and negotiations with legal counsel.**
- 11. EXECUTIVE SESSION: Pending Litigation: CT Judicial Branch Supreme/Appellate Case, Docket #: AC220015, High Watch Recovery Center, Inc. v. Town of Kent Planning and Zoning Commission.**

There was no reason to go into Executive Session to discuss agenda items 10 and 11.

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12. Open session involving discussion and possible action on Pending Litigation: The Roberti Family, LLC v Town of Kent, Connecticut and Planning & Zoning Commission of the Town of Kent, Connecticut in the United States District Court for the District of Connecticut filed April 24, 2020.
13. Open session involving discussion and possible action on Pending Litigation: CT Judicial Branch Supreme/Appellate Case, Docket #: AC220015, High Watch Recovery Center, Inc. v. Town of Kent Planning and Zoning Commission.

Since the Commission did not enter into Executive Session, no motions were made with regard to agenda items 12 and 13.

14. **ADJOURNMENT**

*Ms. Hicks moved to adjourn at 8:44 p.m. Ms. Casey seconded and the motion carried unanimously.*

Respectfully submitted,

*Donna M. Hayes*

Donna M. Hayes, CZEO  
Assistant Land Use Administrator

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