

TOWN OF KENT
PLANNING AND ZONING COMMISSION
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SEPTEMBER 10, 2020 REGULAR MEETING MINUTES
VIA ZOOM CONFERENCE

The Town of Kent Planning and Zoning Commission held a regular meeting on Thursday, September 10, 2020 at 7:00 p.m.

1. CALL TO ORDER

Chairman Winter called the meeting to order at 7:01 p.m.

2. ROLL CALL AND APPOINTMENT OF ALTERNATES IF REQUIRED

Commissioners Present: Matt Winter, Karen Casey, Marc Weingarten, Adam Manes, Darrell Cherniske
Alice Hicks, and Wes Wyrick

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

3. READING AND APPROVAL OF MINUTES:

3.A. Regular Meeting Minutes of August 13, 2020.

Mr. Manes moved to approve the Regular Meeting Minutes of August 13, 2020. Mr. Weingarten 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. 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."**

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Chairman Winter began the public hearing at 7:06 pm. He clarified that it was never the intent of the Commission to limit employment opportunities or to lure volunteers with the condition in question. He reminded the group that this condition originated with the applicant.

Ari Raskas of Birch Hill came forward and reported that since the last meeting they met with members of the KVFD regarding how they can best collaborate to insure they have the proper mix of staffing and an outsourced ambulance company.

Mr. Winter opened the floor to members of the public.

Mary Ann VanValkenburg, Ambulance Association Chief, discussed the meeting they had with Mr. Raskas and his staff. She reported that they still have concerns on how this will affect them and the burden it may present.

Ms. VanValkenburg clarified for Mr. Winter that EMTs cannot remove an IV; therefore, would not be able to transport. Brad Greenstein of Birch Hill advised that they would have staff available 24 hours per day to remove an IV if needed.

Mr. Manes noted that in order to transport for the KVFD one would have to be a member of the Kent ambulance association and certified as an EMT. Ari Raskas reiterated that they have no interest in deterring members of their staff from being members of the KVFD; however, Birch Hill cannot legally require this as noted in Condition #16.

Darrell Cherniske stated that he remembers being uncomfortable with this condition because it was contingent on staffing another organization.

First Selectman Jean Speck discussed the difference between RNs and EMTs noting RNs cannot act in capacity of an EMT. She discussed the shortage of ambulance association members in Kent.

Karen Casey explained that she feels this puts a burden on the town and Birch Hill should honor their condition. They should follow the recommendations of the KVFD. Ms. Casey also noted that she did not believe the proposed staffing was sufficient for the proposed facility.

Ari Raskas reminded the group that there are many conditions they have to honor per this approval. He does not think that it is fair to say the staffing is unimpressive. Brad Greenstein confirmed that the staffing is quite aggressive.

Karen Casey stated that the difference is that this is a small town with a small group of volunteers. Perhaps some of the facilities used for comparison are larger towns with paid emergency services. She stated that she would like to hear what the KVFD recommends.

Attorney Fisher noted that there is no evidence of holes in the staffing. Birch Hill has given the legal reason for this issue and they have gone the extra step of hiring an outside service. This is being done in good faith to fulfill what the Commission expects and requires.

Eric Epstein of the KVFD reviewed the call history and found the calls did reduce after the other similar facility in Kent hired an outside ambulance service; however, KVFD still receives some calls. He summarized that the commercial ambulance helped, but did not solve the problem. Call volume over the past six months has been way down, but that could be because of Covid.

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Wes Wyrick stated that he feels they are making a good faith effort to resolve the situation. They were unaware of the consequences of the condition when it was added to the resolution.

Darrell Cherniske noted that if the intent still remains, it accomplishes what the Commission set out to do.

Alice Hicks stated that this is incredibly complicated and the worst thing that could happen is the public, as a whole, is not being protected.

Adam Manes agreed it is complicated. The Commission has to be concerned with affecting services to the Town. The problem the KVFD is having with staffing has been an issue for some time and has nothing to do with Birch Hill. Mr. Manes believes Birch Hill would put their staff there if they could.

Karen Casey feels Birch Hill should provide more medical staffing and be a part of the KVFD.

Ari Raskas stated that from the very beginning they have been cooperative, collaborative, non-litigious, and a business run by professionals. That has not changed. When this first presented as an issue they sat down with KVFD to come up with a solution.

Mr. Weingarten moved to close the public hearing at 8:09 pm 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. 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." Mr. Manes seconded and the motion carried unanimously.

Chair Winter noted that he understands there may be a void in services and that is why he was agreeable to this condition. Marc Weingarten suggested a condition requiring them to fund an EMT for the KVFD. Chairman Winter advised that the question on the table is whether to accept the amendment to #16.

Donna Hayes read Birch Hill's suggested language for the amendment for the record:

"In accordance with representations by the applicant, Birch will be required to have staff on-site 24/7/365 that are qualified to provide medical services at the same or greater level than that of EMTs and that the applicant will contract with a private ambulance service for non-911 calls."

The group discussed conditioning the approval for a future reevaluation once they are up and running and the impact is understood. Adam Manes discussed the reality of enforcement once their business is up and running.

Darrell Cherniske reminded the group that this Commission approved two new facilities and a huge addition and it seems absurd to now deny this small change. This seems like immense buyer's remorse.

Karen Casey questioned the rush in making this decision and felt it should be further discussed and the Land Use Attorney should be consulted.

Mr. Winter noted he does not feel like this is buyer's remorse. It is a condition that was felt to be valuable. These residents will become members of our town once up and running. The Commission is considering what is best for the town as a whole.

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Mr. Cherniske moved to approve the modification with presented language 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." Mr. Manes seconded and the motion carried 4-3. Casey, Hicks, and Winter opposed.

Donna Hayes reported that the new language must be filed on the land records, the approval will be posted in newspaper and there will be a 15 day appeal period.

5.B. DISCUSSION AND POSSIBLE DECISION

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

5.B.2. 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.

Adam Manes reported that he viewed the site and does not feel this proposal would be visible from anywhere. Darrell Cherniske stated that even without leaves on the trees there would be relatively no impact.

Matt Winter stated that he would generally like to see more information submitted with these applications.

Mr. Manes moved to accept waivers as listed on the application site plan checklist. Mr. Weingarten seconded and the motion carried unanimously.

Mr. Manes moved to approve 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. Mr. Weingarten 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 #51-20SP and 52-20C, Vincent Roberti, Jr. for High Watch Recovery Center, Inc., 47 Carter Road, Map 14 Block 21 Lot 17, construction of 30' x 70' greenhouse.

Mr. Wyrick and Mr. Cherniske recused themselves. Chairman Winter read the notice of public hearing for the record and opened the public hearing at 8:45 p.m.

Donna Hayes reported that this is a proposal to construct a greenhouse to grow vegetables that will be used at the campus across the street. They were missing some items from their site plan, which was resubmitted today to include distances to the wetland, setbacks and size of greenhouse. There were no indications whether there would be water or electricity on the application. Due to the time restrictions the revised site plan could not be submitted for tonight's meeting.

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Vinny Roberti discussed the proposal noting its location and construction. This greenhouse will extend their growing season. It will have water and power. It is a hoop house structure that can be moved very easily. It is 500 feet from the wetlands and about 1000 feet from the road.

Adam Manes noted that the application states there is no plumbing. Vinny Roberti clarified that they will have water for the plants.

Mr. Roberti reported that a combination of live in labor and staff will work in the greenhouse. They currently supply 5 percent of their own vegetables. He noted that they may like to market it down the line and may have a farm stand. They currently sell their honey online.

Silt fence or hay bales would be used if they felt construction would impact the brook. They do not anticipate excavation. The service and well existed on the property when it was purchased.

Ellen Altfest stated that a 2400 square foot greenhouse is not therapeutic, it is a business. This is not the approved usage of a horse farm. This is something separate. This is an expansion of construction, which is not permitted. The quality of life is diminished on the road. There will be more employees and visitors. This should require an independent traffic study. The neighborhood is already suffering. This will further depress property values. High Watch is putting new things in all the time and this is not in all the road's residents' interest. This is the time to put an end to this expansion.

Rob Colvin stated that he thinks "it is time to stop feeding the High Watch beast..... construction, dirt, dust, two story piles of gravel, dump trucks". This is not what was initially intended when High Watch was created. The traditional High Watch philosophy is to do with what you have. It is time to take this seriously and stop the continued approvals.

Lou Altfest noted that there are 2000 residents in Kent and 200 people at High Watch. That is 10% and asked that the Commission visualize what that means for Carter Rd. There are rumors High Watch is in process of buying more properties. He understands there is already a limit established. They have plenty there. They were a good neighbor at one time and now look what they are doing.

Ellen Altfest noted that two neighbors submitted letters late and she would like to read them for the record. There were four people that could not be present who were opposed to this proposal. Chairman Winter suggested that they be read at the continuation of the public hearing.

Donna Hayes stated that Ellen Altfest brought up a good point. High Watch should be going to the ZBA. Matt Winter suggested that the Land Use Attorney weigh in on whether this is an accessory use. Chairman Winter agreed that this is a pre-existing non-conforming use since convalescent homes no longer exists in the regulations and a non-conforming use cannot be increased without a variance from the ZBA.

Vinny Roberti stated that 47 Carter Road is a separate property from High Watch. It is used as an accessory to a therapeutic use. This is a farm. Equine therapy is very popular. It should not be on the record that they are planning a farm stand. There is not a lot of traffic or deliveries. It is not high impact at all. He is not claiming a hard ship. This is something fun they would like to do.

Donna Hayes questioned whether the growing of vegetables was going to be a therapeutic accessory use to the program similar to the equine program. Vinny Roberti noted that it would be very similar.

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Karen Casey noted that allowing High Watch to grow vegetables for their facility should not be so complicated. Chairman Winter explained that farming and a farm stand would be considered further creep by the neighbors.

Donna Hayes explained that the designation of a property is important in making legal decisions. It was agreed this would need to be further discussed with Attorney Zizka. She would need to know a definitive answer regarding whether this is a therapeutic program prior to contacting Attorney Zizka. Mr. Roberti stated that currently the answer is no. Alice Hicks noted that Mr. Roberti has now stated twice that this has nothing to do with the clients of High Watch.

Mr. Manes moved to continue public hearing at 9:42 pm for application #51-20SP and 52-20C, Vincent Roberti, Jr. for High Watch Recovery Center, Inc., 47 Carter Road, Map 14 Block 21 Lot 17, construction of 30' x 70' greenhouse. Mr. Weingarten seconded and the motion carried unanimously.

Darrell Cherniske was reseated.

6.B. DISCUSSION AND POSSIBLE DECISION

- 6.B.1.** Re-appointment of Ellen Corsell, Frank Way and Peter Hanby to two-year terms as members of the Architectural Review Board expiring August 2, 2022.

Mr. Manes moved to re-appointment of Ellen Corsell, Frank Way and Peter Hanby to two-year terms as members of the Architectural Review Board expiring August 2, 2022. Mr. Winter seconded and motion carried unanimously.

- 6.B.2.** Modification to permit #81-18C, Mark G. Smith, P.E., for MKN Property Holdings, LLC, 5 South Main Street, Map 19 Block 12 Lot 5, addition, new pumps and tanks: **Modification to include the installation of two (2) 1,000 gallon propane tanks and one 48KW generator.**

Donna Hayes reported that this modification would bring closer to swift side of the building. Mr. Gleason explained that they would reducing the generator size to minimize impact. Tanks will be on the east side. The owner would like a chain fence around the unit for safety. Trenches will be dug for conduit.

Mr. Winter discussed the distance from setback and suggested the tanks run parallel. He noted a concern with an echo from the building. Mr. Gleason explained that the noise would come out of exhaust on the south side toward Route 7. No echo is expected.

The Commission requested and Mr. Gleason agreed to add screening within the chain link fence.

The members found no issues with this request.

Mr. Weingarten moved to approve modification to permit #81-18C, Mark G. Smith, P.E., for MKN Property Holdings, LLC, 5 South Main Street, Map 19 Block 12 Lot 5, addition, new pumps and tanks: Modification to include the installation of two (2) 1,000 gallon propane tanks and one 48KW generator with the conditions that the tanks are inside setback and there is screening on fence. The motion was seconded by Mr. Manes 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 – August 10 – September 4, 2020. Reviewed

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.

Matt Winter reported that he testified for the Siting Council as discussed. He asked that Donna Hayes keep the Commission updated regarding status.

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

Chairman Winter reported that he reviewed report and found no issues.

ADJOURNMENT

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

Respectfully submitted,

Tai Kern

Tai Kern, Land Use Clerk