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By Darlene Brady at 11:14 am, Mar 19, 2024

**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 on Thursday, March 14, 2024, beginning at 7:00 p.m. via zoom.

1. CALL TO ORDER

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

2. ROLL CALL AND APPOINTMENT OF ALTERNATES IF REQUIRED

Commissioners Present: Wes Wyrick, Chairman; Karen Casey, Darrell Cherniske, Lawrence Dumoff, Shelby Green, Christopher Harrington, Alice Hicks, Anne McAndrew (7:03 p.m.)

Mr. Wyrick elevated Mr. Harrington to voting status.

3. READING AND APPROVAL OF MINUTES:

3.A. February 8, 2024 Regular Meeting

Mr. Cherniske moved to approve the regular meeting minutes of February 8, 2024. Ms. Hicks seconded and the motion carried unanimously.

4. PUBLIC COMMUNICATIONS (ORAL):

No action taken.

5. OLD BUSINESS: None

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

5.B. DISCUSSION AND POSSIBLE DECISION:

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6. NEW BUSINESS:

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

6.A.1. Application 126-23SP & 127-23C, 81 Victorian Kent LLC, 81 North Main St., Map 19, Block 15, Lot 5, Change of use to bed and breakfast per 3134.5.

Mr. Wyrick read the legal notice into the record and opened the public hearing at 7:04 p.m.

Mr. Wyrick said that as he understands that, this application only applies to the front building and no work will be done to the back building. Mr. McPhee, property owner, agreed.

Mr. McPhee explained that the front building had operated as a boarding house and a b-n-b prior to their acquisition. He continued that the Victorian is designated as a boarding house with 6 rooms and since their purchase and a major renovation he would like to re-zone the building to a b-n-b. There is a full time manager who resides on the property in the structure that is attached by a breezeway to the Victorian. Ms. Kern said that the manager would be the owner representation per the owner's attorney.

Mr. Wyrick asked Ms. Kern if there were any other concerns. Ms. Kern said that the site plan was revised to accommodate the parking requirements; the clarification of the use of the cottage has been remedied as "owner occupied"; the only outstanding issue is the permission from the Sewer Commission which will meet next week.

Mr. Wyrick said that he has no issue with the manager qualifying as the owner on site and he had viewed the parking which he felt was no concern.

Ms. McAndrew asked if the Commission had to discuss holding special events. Mr. McPhee said that there had been two birthday parties within the house since there really is not much outdoor space and there are the tenants at the back of the property. Mr. Wyrick said that one person could book the entire house and hold a special event. Mr. McPhee said that there are clauses regarding loud music and that the manager is on site in case anything should come up.

Mr. Cherniske said that he has no issue with the operation. He said that the Commission is setting a precedent by allowing an employee to satisfy the requirement for owner occupied. Mr. Wyrick said that he agrees, but since this is a special permit, the decision will be site specific. Ms. Casey reminded the Commission that permission had been granted previously with regard to the owner not being present. Ms. Kern said that was done, but only when the property was considered a boarding house under the pre-existing definition and not a b-n-b. By allowing this to be a b-n-b allows the current property owner to have more individual guests.

Mr. Harrington asked if the square footage of the Victorian had been clarified. Ms. Kern replied that she had some questions relative to the cottage, but the statement regarding the occupant of the cottage was changed and now meets the requirement. Mr. Harrington also asked if anyone had contacted emergency services with regard to access. Mr. Wyrick said that he hoped that had been addressed when the back building was constructed and that this application only has to do with the front building and that no changes were being made to the footprint. Mr. McPhee said that emergency services does have access to the fire boxes. He continued that the Fire Marshal had required a commercial fire alarm system which was installed.

Ms. Kern said that there were waivers to the application. Mr. Wyrick said that he had no issue with the waivers.

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Mr. Cherniske moved to close the public hearing at 7:30 p.m. Ms. Casey seconded and the motion carried unanimously.

Mr. Wyrick said that the issue is whether or not a manager can substitute for an owner in this case. He continued that because the owner lives across the street, there should be no issues. Ms. McAndrew asked if the owner did actually live across the street; Mr. McPhee explained that they did not; they owned the property.

Mr. Wyrick said that he did not think there were any compatibility issues, did not think there would be any nuisances as Mr. McPhee addressed the issue of occasional parties and all that was left was to make sure that the Sewer Commission had no issues. Mr. Cherniske warned that forming an LLC to control a b-n-b could be used in future cases. Ms. Casey said that she was stuck on the classification of the Victorian as a b-n-b with owner occupied, when it was allowed when it was a boarding house. She feels that they are almost identical uses. Mr. Cherniske disagreed. Mr. Wyrick said that the Town has a real need for this type of accommodation. Ms. Kern said that the boarding house use was a pre-existing use/definition; the new regulation states that both boarding and b-n-b's require owner occupied.

Mr. Chernisked moved to accept the waivers as stated. Mr. Harrington seconded and the motion carried unanimously.

Ms. Green moved to approve Application 126-23SP & 127-23C, 81 Victorian Kent LLC, 81 North Main St., Map 19, Block 15, Lot 5, Change of use to bed and breakfast per 3134.5. Mr. Dumoff seconded and the motion carried unanimously.

6.B DISCUSSION AND POSSIBLE DECISION

6.B.1. Application# 02-24C, Andreas Boker, 41 Jennings Rd., Map 11, Block 40, Lot 13, 14x60 inground pool within horizonline.

Mr. Harrington recused himself from this discussion. Mr. Wyrick elevated Ms. McAndrew to voting status.

Mr. Jeff Anderson, Litchfield County Pools, was present to address the Commission. He explained that the project was the construction of a 14' x 60' inground pool; that no trees to be taken down; the only lights were in the pool itself; and the property where the pool will go is pretty much an open field. Mr. Dumoff asked if there would be a fence; there will be no fence since the pool will have an automatic cover. Ms. McAndrew asked how far from the house the pool will be located. Mr. Anderson replied about 50' or so to the first corner of the pool. He confirmed that there will be no landscaping lights and the pool equipment will be behind the garage and centered on the property. Mr. Wyrick asked if the pool was completely behind the house and Mr. Anderson said that it is planned to be toward the right. Mr. Cherniske asked if any fill was being brought in. Mr. Anderson said that the material from the pool will be used on the property. There will be 5 lights in the pool that will be 5 lumens. Ms. McAndrew asked if 50' would be a long enough walk to warrant landscape lighting. Mr. Anderson said that the lights from the house would be sufficient.

Ms. Kern said that she had heard from Ms. Weber and that she would not be approving the pool since the property had been illegally split which ended up having the septic on a separate lot. It is, therefore, a requirement of the Health Department that the property be remerged.

Mr. Cherniske moved to approve Application# 02-24C, Andreas Boker, 41 Jennings Rd., Map 11, Block 40, Lot 13, 14x60 inground pool within horizonline subject to the property being remerged as required by Torrington Area Health District. Mr. Dumoff seconded. During discussion the following motion was made:

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Mr. Cherniske moved to accept the waivers as presented. Mr. Dumoff seconded and the motion carried unanimously

The motion to approve the application carried unanimously.

6.B.2. Application #03-24C, Allison Kuharski, 184 Cobble Rd., Map 10, Block 42, Lot 34/33, 256 sq ft shed/pavilion within horizonline

Ms. Kuharski was present to address the Commission. She explained the application and said that the structure would go on the rear lot. Ms. Kuharski said that she plans on combining the lots to construct the structure which will be a pavilion. There is foliage on the property which will block part of the view from adjoining properties and she plans on adding some redwoods. Based on the orientation, the rear neighbor will not see the structure. There will be no water, septic, or exterior lighting; there will be electric and wi-fi.

Mr. Wyrick said that it was a considerable distance from Cobble Road and Route 341. Ms. Kuharski said that it is wooded on the south side. A profile of the building will probably be seen in the winter but she plans to paint the top either a gray or green. She is requesting a waiver to a landscaping plan.

Mr. Wyrick said that he had driven by and said that he found it hard to see and that only the interior lighting might be an issue but did not want the Commission to get into that realm of approval. Mr. Cherniske said that you might be able to see the structure from the last curve heading west on Rte. 341. Ms. Kuharski said that it is possible but it would be a stretch. Mr. Cherniske commented that it would not be lived in full time, but wanted to bring up a possible move to the orientation.

Ms. Green moved to accept the waivers as mentioned. Mr. Cherniske seconded and the motion carried unanimously.

Ms. Green moved to approve Application #03-24C, Allison Kuharski, 184 Cobble Rd., Map 10, Block 42, Lot 34/33, 256 sq ft shed/pavilion within horizonline. Mr. Cherniske seconded and the motion carried unanimously.

6.B.3 Pre-application review- Kent School, 25 Skiff Mountain Rd., Map 3, Block 9, Lot 24, modification to 145-02SEP to allow for three family dwelling.

Mr. Jeff Bergin and Mr. Jeff Cataldo were present to discuss the pre-application. Mr. Bergin said that in lieu of the three homes previously approved, they wanted to construct a 3-family house. He continued that Ms. Kern had some questions.

Ms. Kern said that this would require modifications to the existing site plan, special permit, and wetlands permit. She is also concerned that 3-family homes are not allowed in the rural district; she felt that the Commission could consider this an accessory use to the school. Ms. Kern continued that multiple homes are not allowed on a single lot, but it has been done here and seems to be as an accessory use. Mr. Bergin said that the lot is approximately 80 acres. Mr. Cherniske said that he likes the location of the proposed structure and that it would fit in with the intended use. Mr. Bergin said that it would be a modular similar to the last two that were constructed. He continued that it would be easier to construct this 3-family than to put in 3 separate structures. Ms. Kern said that a condition was put in the special permit which says that this area is an integral part of the school and as such cannot be separated and sold individually. Mr. Wyrick agrees with Mr. Cherniske and does not feel that the impact would be visual since it is more condensed. It will not change the count of what was previously approved.

Mr. Dumoff asked if the structure would be above the height requirement. Ms. Kern said that she did not see the height indication, but reminded the group this was a pre-application review and a full review would be done once

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the application is received. Mr. Bergin said that the structure will be set into the embankment and will not be higher than the existing two single family homes.

Ms. Green wondered if this should be a variance and not an amendment to the special permit. Mr. Bergin said that there is the condition on the special permit which would eliminate the private sale. Ms. Kern said that the Regulations for variances state use variances can only be done in the industrial district and she was not sure that would be an option. Ms. Green said that it makes sense on multiple levels. Mr. Dumoff said that he likes the open space. Mr. Wyrick said that he considers this lot a “planned development”.

Mr. Cataldo said that he thinks Ms. Kern has identified several important points. The 20 houses on one lot are considered a “village” which is critical to the school campus and are maintained as part of the campus. The design of the new structure will very much look like a colonial home that you would see in any neighborhood. Mr. Cataldo finished by stating that it will be a very cost-effective way to provide staff housing.

Mr. Wyrick asked the Commission if any Commissioners felt that the Kent School should not move forward with an application. There were no comments.

7. STAFF REPORT

Ms. Kern reminded the Commission about the FOI training.

Ms. Kern advised the Commission that Ms. Chase had shared some information on new classes on the UCONN CLEAR site.

Ms. Kern reported the Commission that the Supreme Court had agreed to the appeal certification that was submitted by Atty. Zizka. She had no idea regarding the timing going forward.

8. REPORT OF OFFICERS AND COMMITTEES:

No action taken.

9. OTHER COMMUNICATIONS AND CORRESPONDENCE:

9.A. Administrative Permits and Certificates of Compliance

The document was received by the Commission; no action taken.

10. ADJOURNMENT

Mr. Dumoff moved to adjourn at 8:24 p.m. The motion carried.

Respectfully submitted,

Donna M. Hayes

Donna M. Hayes, CZEO
Land Use Administrator

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