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By Darlene Brady at 12:26 pm, Jun 08, 2021

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, May 13, 2021 at 7:00 p.m. via zoom.

1. CALL TO ORDER

Mr. Winter called the meeting to order at 7:04 p.m.

2. ROLL CALL AND APPOINTMENT OF ALTERNATES IF REQUIRED

Commissioners Present: Matthew Winter, Chairman; David Birnbaum, Karen Casey, Darrell Cherniske, Alice Hicks, Adam Manes, Anne McAndrew, Marc Weingarten

Staff Present: Donna M. Hayes, LUA

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

3. READING AND APPROVAL OF MINUTES:

3.A. Regular Meeting Minutes of April 8, 2021.

Mr. Cherniske moved to approve the Regular Meeting Minutes of April 8, 2021, as submitted. Ms. McAndrew seconded and the motion carried unanimously.

3.B. Special Meeting Minutes of April 15, 2021.

Mr. Weingarten moved to approve the Special Meeting Minutes of April 15, 2021, as submitted. Mr. Birnbaum seconded and the motion carried unanimously.

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3.C. Special Meeting Minutes of April 22, 2021.

Mr. Birnbaum moved to approve the Special Meeting Minutes of April 22, 2021, as submitted. Mr. Weingarten seconded and the motion carried unanimously.

4. PUBLIC COMMUNICATIONS (ORAL):

No action taken.

Mr. Winter asked for a motion to move agenda item 6.B.2. to before agenda item 5.A.1. Mr. Manes made the motion and it was seconded by Mr. Cherniske. Because Ms. Bush-Suttman was not present, Mr. Manes rescinded his motion.

5. OLD BUSINESS:

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

5.A.1. Application #'s 11-21SP and 12-21C, David Bouley, 16 Longview Road, Map 11 Block 40 Lot 49, conversion of existing barn/garage into a 2-bedroom detached dwelling unit.

Mr. Winter explained that this was not discussed at the last meeting because no new information had been submitted. Ms. Hayes explained that the applicant could not attend the meeting due to a previous commitment. A surveyor had presented the site plan that was requested by the Commission at a previous meeting. Mr. Winter pointed out that there were several things missing from the application. Ms. Hayes explained that all the information had been submitted previously and that the only thing that was missing was the survey. Mr. Winter pointed out that a request for waivers should have been submitted. Mr. Winter asked why a floor plan was not submitted. Ms. Hayes said that she will usually get a copy of the interior floor plan with the approval from Torrington Area Health. Mr. Manes asked if there was a problem with the detached dwelling being larger than the principal dwelling. Ms. Hayes explained that due to a change to the regulations, that is not an issue. Ms. Hayes explained that Torrington Area Health had originally approved the conversion in 2012 and then reapproved it recently.

Mr. Manes said that the process is not being followed and as a result, this application has been discussed multiple times. Mr. Winter asked how the Commission would like to proceed. Ms. Hicks said that this is not a complete application and that the request should be made that if the applicant cannot attend the meeting a representative should be present. Ms. McAndrew agreed.

Mr. Manes moved to continue the public hearing until the next regular meeting. Mr. Birnbaum seconded. During the discussion, Mr. Cherniske said that the applicant was present two months ago and that maybe the Commission should be more specific about what the Commission needs in order to make decisions in a more timely manner. Mr. Manes asked if that information is provided during the application process. Ms. Hayes replied that yes it is and asked the Commission if they wanted her to start sending back applications if they are not complete. Mr. Winter said that most towns have at least a time limit of 3 weeks prior to the meeting. He continued that he believed the

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Commission was specific with the applicant. Mr. Cherniske said that he wants to make sure that the Commission is consistent with the requests of the applicants. Mr. Birnbaum said that if the applicant was present, these issues could have been discussed during the meeting. Mr. Winter called the vote. The motion carried 7 ayes 1 abstention.

Mr. Winter summarized that the Commission needs the applicant at the meeting to talk to their plans. Mr. Manes agreed. It was decided that Ms. Hayes make sure that the waiver request list is completed.

Mr. Manes moved to hear agenda item 6.B.2. at this point in the agenda. Mr. Weingarten seconded and the motion carried unanimously.

- 5.A.2.** Application #'s 29-21SP and 30-21C, James Bernardin & Julie Chang, 13 Greenwood Lane, Map 9 Block 15 Lot 58, construction of detached dwelling unit, driveway extension, detached garage, septic and associated site work.

Mr. Winter reopened the public hearing at 7:56 p.m. He said that the Commission asked for some specific information to be added to the site plan which was done. Ms. Hayes explained that she had heard from an abutter with concerns about the new building. He said that Greenwood Lane is not a lane but a driveway and is questioning whether or not the new house would be affordable based on the current regulations. The abutter explained the creation of the Lane was done by a past selectman in order for people to find and visit Ms. Greenwood, whose house was located off of the driveway. The Lane was never accepted by the Town and is considered a private roadway.

Mr. Bernardin said that they had purchased the property 15 years ago and that they had purchased 2 lots off of Greenwood Lane. A few years ago they did a lot line revision making the two lots approximately the same size. The new house that is proposed to be built will be built on the lot containing the existing principal dwelling.

Mr. Winter asked who owns Greenwood Lane. Mr. Bernardin said that the whole of Greenwood Lane is owned by them as a driveway entrance from Route 7. Mr. Winter asked why that is not shown on the site plan. Mr. Bernardin said that the land records show that they own the driveway and can provide the documentation that will show that. He explained that there are only two houses on Greenwood Lane; 11 and 13 and that the third house would be built on the lot called #13. Number 13 Greenwood Lane owns the driveway and that is indicated in the deed. Mr. Bernardin said that he could provide that information at another meeting. Mr. Winter said that the Commission can move forward knowing that information. He did advise Mr. Bernardin that based on the configuration of the driveway, if they were ever to decide to build a house on the empty back lot, that house would have to be affordable as outlined in the current zoning regulations. Mr. Bernardin said that the back lot, which is 6 acres, is not being addressed at this point in time and that the proposal is for the lot identified at 13 Greenwood Lane which is the lot that he currently lives on.

Mr. Winter asked the Commission if they would still like to address the merits of the application. Mr. Manes said that he was open to going forward. Mr. Winter said that he has no objections to the construction of the accessory structure; the driveway plan and septic plan has all the information needed and there are waivers. Mr. Manes confirmed that if Mr. Bernardin were to decide to split the lot known as 13 Greenwood Lane, one of the structures would have to be affordable. Ms. Hayes also said that before the new house can get its zoning compliance and certificate of occupancy, one of the houses has to be designated "principal".

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Mr. Manes moved to close the public hearing at 8:26 p.m. Mr. Weingarten seconded and the motion carried unanimously.

Mr. Manes moved to accept waivers 6, 8, 11, 12 and 13. Mr. Cherniske seconded and the motion carried unanimously.

Mr. Birnbaum move to approve Application #'s 29-21SP and 30-21C, James Bernardin & Julie Chang, 13 Greenwood Lane, Map 9 Block 15 Lot 58, construction of detached dwelling unit, driveway extension, detached garage, septic and associated site work. Mr. Manes seconded. Mr. Winter modified the motion to state that Greenwood Lane is a driveway and not a private road. Mr. Manes asked if it should be further clarified that the driveway is owned by Mr. Bernardin and Ms. Julie Chang. Mr. Winter said that it made no difference who owns the property as long as it is noted that Greenwood Lane is a driveway and not a private road. Mr. Winter added that the application is for a detached dwelling unit that is the accessory use. Mr. Birnbaum agreed to the modification and Mr. Cherniske seconded the modification. The vote was called and it past 7 ayes and 1 abstension.

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 table agenda item 5.B.1. to the next regular meeting. Mr. Cherniske seconded and the motion carried unanimously.

5.B.2. Application #32-21C, Paul Szymanski, P.E., Arthur H. Howland & Associates for Jonathan Chaplin & Rona Yujung Kim, 32 Mountain Road, Map 12 Block 40 Lot 15, construction of new inground pool, terrace, shed and related site work within the Horizonline Conservation District – approval of waivers.

Ms. Hayes explained that when the approval was given at the previous meeting, the process of approving the waivers was skipped.

Mr. Manes moved to approve the following waivers: 2, 3, 4, 5, 7, 8, 9, and 12. Mr. Birnbaum 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 #39-21SP, Paul Szymanski, P.E., Arthur H. Howland & Associates for Jonathan Chaplin & Rona Yujung Kim, 32 Mountain Road, Map 12 Block 40 Lot 15, change of use of detached garage from detached guest house to detached dwelling unit.

Mr. Winter read the public notice into the record and opened the public hearing at 8:30 p.m.

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Mr. Szymanski, P.E. was present to address the Commission. He explained that since his last appearance before the Commission, the property owners have decided to add a kitchen to the existing garage thereby changing it from a detached guest house to a detached dwelling unit. Since all of the work will be interior there will be no changes to the site plan that was submitted previously. With regard to Torrington Area Health approval, Ms. Weber said that she will only sign off on the proposed work after the septic system has been installed because of the tight area in which the septic system is to be installed. Mr. Manes said that normally the Commission will not approve anything that has not already been approved by TAHD. Mr. Szymanski said that they are aware of this condition and that TAHD has approved the plan for the installation of the septic but is requesting that it be put in first because there is so much ledge in the area. Mr. Cherniske asked if the fill was just for the pool or if it would be placed in the area of the septic as well. Mr. Szymanski said that the fill would be for both.

Mr. Manes moved to close the public hearing at 8:41 p.m. Mr. Birnbaum seconded and the motion carried.

Mr. Birnbaum moved to approve Application #39-21SP, Paul Szymanski, P.E., Arthur H. Howland & Associates for Jonathan Chaplin & Rona Yujung Kim, 32 Mountain Road, Map 12 Block 40 Lot 15, change of use of detached garage from detached guest house to detached dwelling unit. Mr. Manes seconded and the motion carried unanimously.

- 6.A.2.** Modification to Application #'s 159-02SEP and 13-02CP, Bulls Bridge Golf Course, 71 Bulls Bridge Road, Map 6 Block 11 Lot 13, modification to include the construction of an 8' x 42' chemical storage building.

Mr. Winter read the public notice into the record and opened the public hearing at 8:44 p.m.

Ms. Hicks and Mr. Weingarten recused themselves from this discussion as members of the Bulls Bridge Golf Course.

Mr. Stephen Hicks, Superintendent of the golf course, and Mr. Russell Posthauer, Engineer, were present to address the Commission. Mr. Hicks explained this was to follow up on the original plans that were submitted when the golf course was approved. Mr. Posthauer explained that the construction of this building would be for the storage of chemicals.

Ms. Hayes stated that she was a little confused by the information that was supplied on the TAHD approval. The application states that the purpose of the building was chemical storage but the plan that was approved by TAHD should a much larger building that contains offices and changing rooms. Mr. Hicks said that the project they are trying to achieve is for the installation of the 8' x 42' chemical storage building that is premanufactured with a sump pump that will handle liquid fertilizer, weed control and pest control. He continued that this plan shows part of the master plan but they are applying just for the storage building. They would like to renovate the existing building at some point in time but the Club's Governing Board has only approved the 8' x 42'. Mr. Posthauer said that the septic system that was approved on the presented plan has nothing to do with the 8' x 42'.

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Mr. Manes asked what would happen to any kind of spill. Mr. Hicks replied that the building will be self-contained and that any spill would stay within the structure and not spill outside of the building. Any spill will be cleaned up and put into a sprayer.

Mr. Posthauer said that Torrington Area Health had approved the chemical storage building. Ms. Hayes said that if you look at the TAHD approval that is listed on the submitted site plan she is only approving the installation of the septic system with regard to the changes to Maintenance Building 1. Ms. Hayes said that she would send Ms. Weber an email asking for clarification of the approval.

Mr. Manes moved to close the public hearing at 9:00 p.m. Mr. Birnbaum seconded and the motion carried unanimously.

Mr. Manes moved to accept Modification to Application #'s 159-02SEP and 13-02CP, Bulls Bridge Golf Course, 71 Bulls Bridge Road, Map 6 Block 11 Lot 13, modification to include the construction of an 8' x 42' chemical storage building pending Torrington Area Health District clarification of the approval. Mr. Birnbaum seconded and the motion carried unanimously.

Ms. Hicks and Mr. Weingarten returned to the meeting.

6.B. DISCUSSION AND POSSIBLE DECISION

Mr. Manes moved to hear agenda item 6.B.3. at this point in the agenda. Mr. Cherniske seconded.

6.B.1. Creation of interviewing subcommittee for the Land Use Clerk position.

Ms. Hayes explained that she would like to set up an interviewing subcommittee for the replacement of Tai Kern, Land Use Clerk, who left to take a full-time position in the Town of Southbury. Ms. Hayes explained that she had posted the job opening on the Town's website and listed it with Indeed. The Inland Wetlands has a subcommittee for interviewing viable candidates.

Mr. Winter moved to create an Interviewing Subcommittee consisting of himself and Mr. Manes with Ms. Hicks as an alternate. The purpose of the Subcommittee will be to interview and make a recommendation to the Board of Selectman for the hiring of its chosen candidate. Mr. Birnbaum seconded and the motion carried unanimously.

6.B.2. Virginia Bush Suttman and Steven Lazar introduction of the new Affordable Housing project.

Ms. Suttman introduced Mr. Steven Lazar and Mr. Gary Ford as additional representatives. She explained that they are in the process of purchasing a piece of property from Mr. Casey with the intent of converting it into 6 affordable units. In order to obtain funding, it will be required that a change of use be approved by the Planning & Zoning Commission. The building is 5,000 sq. ft on one floor with a full basement. It is connected to the town sewer. The building was built to accommodate a 150 seat restaurant/meeting hall. They were informed by a representative of

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the sewer commission that the hook up is possible. The trash will be screened. Once the purchase is completed, they will apply with the Department of Housing for financing.

Mr. Winter asked Ms. Hayes to give an update on the review of the proposal. She explained that she had just received the information and had not had a time to review any information. She said that she was under the impression that this was just a preliminary discussion with the Commission.

Mr. Lazar explained that they are planning on converting the building into 5 townhouse units. Three one bedroom, one two bedrooms and maybe 1 three bedroom and one other section of the building that used to be the loading dock into a 3 bedroom. The footprint of the building will not change with the exception of the work that is required to bring it up to code. The building will need to be gutted, all new insulation and siding will be added. They are still discussing the finishing of the basements. The basement space would be portioned off and connected to the unit above. They are debating about putting a 2 bedroom in the basements but in most cases there will be no bedrooms in the basement because secondary egress would need to be included. They will be adding one or two entries and a couple of overhangs. No square footage will be added to the building itself.

Mr. Winter said that he feels it fits within the regulations as outlined in the proposal. It seems to him that it is a good re-adaptive use of the building. His only concern is the parking. Ms. Suttman said that there are 13 spaces available for the units. She said that they are discussing the possibility of obtaining the area to the south which will add additional parking. If that does not happen, they still have the required parking. Mr. Winter said that a shared parking agreement would also work. Mr. Winter asked if the subdivision of the property had been done. He was informed that it was.

Ms. Suttman said that the housing will provide the residents with access to the center of town and all the amenities that are within that area. She said that once they get the funding to begin the process, they will come back to the Commission with the applications necessary to create the housing.

6.B.3. Modification to Permit #005-16, Irvlen Equity, LLC, 60 North Main Street, Map 19 Block 42 Lot 5, construction of new art gallery. Modification to include: change of corner window on south side of gallery; change to hemlock siding; elimination of metal siding; and change concrete trim to bronze metal.

Mr. Winter explained that a change had been made to the front façade of the new gallery without approval by the ARB or this Commission. Ms. Hayes explained that the ARB had two special meetings, one being a site walk at the location and the other a follow up meeting to talk about what the changes were. At the follow up meeting, the ARB moved to accept the change to the front window and the siding. They did not approve a change to the north side because the property owner has not decided what material he will be using and they strongly encouraged the submission of a landscaping plan in order to soften the front façade.

Mr. Morrison was present and explained that the original selection of the siding clashed with the back storage building and made the change to use hemlock. The original window did not make sense with the other windows designed so a change was made making them more consistent in look. Mr. Morrison apologized for making the decisions without going to the ARB. With regard to the northside, Mr. Morrison is planning on going with stucco

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but has not finalized the decision. With regard to the landscaping, Mr. Morrison said that he has contracted with Mr. Rosiello to help prepare a plan. Ms. Hayes reminded Mr. Morrison that during the original submission, the landscaping was put on hold because he planned on inviting the farmers market back to the property. Mr. Morrison said that he is planning on inviting them back once the building is finished but was told that they were happy in their current location. He would like to have an all green front lawn in order to showcase the art work and the south side of the front would be left available to the farmer's market if they should decide to take Mr. Morrison up on his offer.

Mr. Winter said that he would like the Commission to look at this because it is such a prominent building in the center of Town. He explained the various changes that are now proposed and showed the originally approved plan. Mr. Morrison explained that the actual size of the new window is larger than portrayed. Mr. Winter suggested that something "heavier" might better balance the building.

Mr. Weingarten said that he did not think the Commission had any jurisdiction over the design. Mr. Winter responded that the ARB has the responsibility to make sure that everything fits in with the surrounding character of the Town. And since the ARB is an extension of the P&Z, the Commission has the authority.

Mr. Manes said that the sculptures on the front lawn would be prominent and not the landscaping. Mr. Morrison said that the landscape architect had explained that he needs something more than grass and would be open to a more defined landscaping plan.

With regard to the actual design of the new window, Mr. Morrison said that he would be willing to discuss the possibility building out around the window creating a more symmetrical look with the front entrance. If this can be done, the change would have to go before the ARB once again. Ms. Hicks asked if the window was functional from the interior and felt that the building looks fine without the window.

Mr. Birnbaum moved to accept the recommendations of the ARB with respect to Modification to Permit #005-16, Irvlen Equity, LLC, 60 North Main Street, Map 19 Block 42 Lot 5, construction of new art gallery. Modification to include: change of corner window on south side of gallery; change to hemlock siding; elimination of metal siding; and change concrete trim to bronze metal. Ms. Casey seconded and the motion carried 7 ayes to 1 nay.

7. STAFF REPORT:

7.A. Vacation

No action taken.

8. REPORT OF OFFICERS AND COMMITTEES:

8.A. Report and recommendation of the RFP for the Rewrite of the POCD Subcommittee

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Mr. Winter explained that the subcommittee had met with three separate organizations with regard to the rewrite of the subcommittee. After a couple of sessions with each one, the subcommittee voted 2 – 1 to retain the services of Planimetrics.

Mr. Manes moved to contract with Glenn Chalder of Planimetrics for the rewrite of the POCD. Mr. Weingarten seconded and the motion carried unanimously.

Mr. Manes moved to disband the POCD Subcommittee. Mr. Birnbaum seconded and the motion carried unanimously.

8.B. Subdivision Regulation Sub-Committee

Previously tabled.

9. OTHER COMMUNICATIONS AND CORRESPONDENCE:

9.A. Administrative Permits and Certificates of Compliance –April 5, 2021 to May 7, 2021.

No action taken.

9.B. Connecticut Federation of Planning & Zoning Agencies, *Quarterly Newsletter*, Spring 2021

No action taken.

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.

No action taken.

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.

No action taken.

ADJOURNMENT

The meeting adjourned at 9:44 p.m.

Respectfully submitted,

Donna M. Hayes

Donna M. Hayes, CZEO
Land Use Administrator

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