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By Darlene Brady at 8:34 am, Jun 11, 2021

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

The Planning and Zoning Commission held a regular meeting on June 10, 2021 at 7:00 p.m. via zoom.

1. CALL TO ORDER

Mr. Winter opened the public hearing at

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, Wes Wyrick

Staff Present: Donna Hayes, LUA

3. READING AND APPROVAL OF MINUTES:

3.A. Regular Meeting Minutes of May 13, 2021.

Mr. Weingarten moved to approve the Regular Meeting Minutes of May 13, 2021 as written. Mr. Birnbaum seconded and the motion carried unanimously.

3.B. Special Meeting Minutes of May 13, 2021 (POCD).

Mr. Weingarten moved to approve the Special Meeting Minutes of May 13, 2021 (POCD) as written. Mr. Birnbaum 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.** 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.

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Ms. Hayes explained that Mr. Bouley was out of the country and did not designate anyone to speak on his behalf. The waivers were submitted and Ms. Hayes said that since the change of use was being applied to an already existing structure, she did not think there would be any problem accepting the waivers and approving the application.

The Commission all agreed that in the future, they would not hear any application that was not complete.

Mr. Weingarten moved to close the public hearing at 7:10 p.m. Mr. Manes seconded and the motion carried unanimously.

Mr. Birnbaum moved to approve the following waivers: 2, 4, 6, 7, 8, 9, 10, 22, 12 and 13. Mr. Weingarten seconded and the motion carried unanimously.

Mr. Birnbaum moved to approve 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. Wyrick seconded and the motion carried unanimously.

5.B. DISCUSSION AND POSSIBLE DECISION

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

Since this item had been on the agenda with no action for an extended period of time, it was decided to remove it from future agendas but to put it back on the agenda for the first in-person meeting.

6. NEW BUSINESS:

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

6.A.1. Application #'s 52-21SP and 53-21C, Paul Szymanski, P.E., Arthur H. Howland & Associates, for North Main Street, LLC, 0 North Main Street, Map 3 Block 15 Lot 5, proposed conservation development of 13 lots.

Based on an administrative error, a conversation with our Town Attorney and the possibility of a lawsuit, it has been decided to not open the public hearing and move this application to the June 24, 2021 special meeting. Mr. Winter added that even though the proposed change had been added to prior meeting information it was not available on the night of the meeting. Mr. Weingarten asked when the comments submitted from the general public would be discussed. Mr. Winter referred Mr. Weingarten to agenda item 9.C.

Ms. Casey joined the meeting at this point in the agenda.

6.A.2. Application #'s 54-21SP and 55-21C, Leigh Garofalow for Rock Cobble Farm, LLC, 0 Peet Hill Road, Map 12 Block 33 Lot 8, creation of cemetery.

Mr. Winter read the legal notice into the record and opened the public hearing at 7:23 p.m.

Ms. Hayes explained the basic proposal before the Commission. Mr. Lee added the following comments: there will be one burial entombment and since the entombment will be in an above ground sarcophagus, the state is not requiring any soil testing; the location of private burial ground cannot be seen from the public roadway and is in a very private woodland location; the proposed plantings are native and will continue with the plantings in the

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woodland garden; the state application states that they were asking for a total of 10 plots although they are only applying to the Town for one entombment.

Mr. Winter thanked the applicant for providing such a complete and thorough application. His one correction to the application would be that the applicant should state that they are applying under §3224.5 and that “private burial ground” be changed to “cemetery”. Mr. Weingarten commented that our regulations already allow for a “cemetery” and that the Commission would be setting a precedent for private burial grounds within the rural district. Mr. Lee replied that the State created this process due to demand, but because the process is intentionally strict with regard to the requirements, no many permits are issued for a private burial ground. With regard to the statement in the application letter regarding the removal of the sarcophagus if the property is ever sold, does not mean that the right of way easement would also be removed. If the property was sold, Mr. Birnbaum stated that the new owner would then have the right to have a private cemetery and that the easement then becomes a public easement. Ms. Hayes asked about conditioning the special permit and those conditions will show up on the land records during a land record search if the property was sold. Mr. Winter did not agree and said the Commission’s purview is to encumber the land and that the old owner would still have the easement. Mr. Manes said that if someone were to buy the property, they buy it with the easement. Mr. Lee asked what would happen if the property were transferred to another family member or family entity. Mr. Manes said that they do not have to say that the sarcophagus would be removed if the property were sold. Mr. Lee said that they added that comment based on a previous discussion with the Commission. If the property was sold, the discussion would be held between the new owner and the seller with regard to the removal of the special permit and the easement.

Mr. Manes asked Mr. Lee if they wanted to rescind the comment: “The sarcophagus will be removed from the property if the property is ever sold by the current family.”

Hearing no public or Commission comment, Mr. Manes moved to close the public hearing at 7:51 p.m. Mr. Birnbaum seconded and the motion carried unanimously.

Mr. Weingarten moved to approve waivers to numbers, 3, 5, 8, 9, 11 and 13. Mr. Wyrick seconded and the motion carried unanimously.

Mr. Weingarten, noting that the applicant has amended the application to ask for a “cemetery” rather than a “private burial ground” and that the applicant has removed the statement “The sarcophagus will be removed from the property if the property is ever sold by the current family.” moved to approve Application #’s 54-21SP and 55-21C, Leigh Garofalow for Rock Cobble Farm, LLC, 0 Peet Hill Road, Map 12 Block 33 Lot 8, creation of cemetery. Mr. Birnbaum seconded and the motion carried unanimously.

6.B. DISCUSSION AND POSSIBLE DECISION

6.B.1. Application #56-21C, Kent Affordable Housing for Building 15 LLC, 16 Landmark Lane, Map 19 Block 42 Lot 45, change of use from commercial to residential.

Ms. Hayes reported that she had a discussion with the property owner and a decision was made to continue this application to the next regular meeting.

Mr. Wyrick moved to continue Application #56-21C, Kent Affordable Housing for Building 15 LLC, 16 Landmark Lane, Map 19 Block 42 Lot 45, change of use from commercial to residential. Mr. Manes seconded and the motion carried unanimously.

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6.B.2. Creation of POCD Rewrite Subcommittee

Mr. Winter stated that he felt the subcommittee should consist of 3 or 4 members and that all the meetings would be virtual. He felt the subcommittee would be doing 70% of the work with the full Commission participating 30% of the time. Ms. Hayes asked the Commission when they would like to set up a kickoff meeting with Mr. Chalder. After discussion it was decided that a special meeting would be held on June 29 at 6 p.m. Ms. Hayes will contact Mr. Chalder and will also resend the original request for information to the stakeholders within the Town since the Commission only received two responses.

Mr. Manes moved to create a POCD Rewrite Subcommittee consisting of Matthew Winter, Adam Manes, Marc Weingarten and Karen Casey whose charge will be to work with Mr. Glenn Chalder of Planimetrics during the rewrite of the POCD and report back to the Commission on the progress. Mr. Weingarten seconded and the motion carried unanimously.

6.B.3. Application #57-21C, T&S Builders, LLC for Eric & Jeanna Sondag, 40 Spectacle Ridge Road, Map 16 Block 25 Lot 35, addition to main house and new deck and dormers.

Ms. Hayes explained that the applicant is proposing additions to an existing house which is partially located within the Horizonline Conservation District.

Mr. Sneller further explained the additions as depicted on the documents submitted with the application. These additions would include a dormer in the garage creating a bonus room, an extension of the basement footprint to provide decking and a three-story, clearstory addition on the southerly side of the building and connecting the existing dormer along the southerly side of the building.

A concern about lighting on the garage façade was noted and it was decided that the fixtures on the west side of the building be downward facing in nature.

Mr. Manes moved to accept waivers to numbers: 2, 3, 5, 6, 8, 9, 10, 11, 12, and 13. Mr. Wyrick seconded and the motion carried unanimously.

Mr. Manes moved to approve Application #57-21C, T&S Builders, LLC for Eric & Jeanna Sondag, 40 Spectacle Ridge Road, Map 16 Block 25 Lot 35, addition to main house and new deck and dormers with the condition that the fixtures on the westerly side of the building be full cutoff and downward facing in nature. Mr. Weingarten seconded and the motion carried unanimously.

6.B.4. Modification to permit #72-07C, Kent Green, LLC, 10 – 14 Kent Green Blvd., Map 19 Block 42 Lot 8: modification to include new sign for “Rojas Tacos”.

Ms. Hayes explained that Namoo had moved out and there was a new restaurant in its location. This modification is for the new sign that is being proposed for the new restaurant. The size and the location is the same. Mr. Winter suggested that this discussion be tabled to the next meeting where the approval would be done after the fact. He asked Ms. Hayes to advise Mr. Casey to be in attendance.

Mr. Manes moved to table Modification to permit #72-07C, Kent Green, LLC, 10 – 14 Kent Green Blvd., Map 19 Block 42 Lot 8: modification to include new sign for “Rojas Tacos”. Mr. Weingarten seconded and the motion carried unanimously.

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7. STAFF REPORT:

7.A. No action taken.

8. REPORT OF OFFICERS AND COMMITTEES:

8.A. Subdivision Regulation Sub-Committee

Previously removed from the agenda.

9. OTHER COMMUNICATIONS AND CORRESPONDENCE:

9.A. Administrative Permits and Certificates of Compliance –May 10, 2021 to June 4, 2021.

No action taken.

9.B. Monthly Financials – July 2020 through April 2021

No action taken.

9.C. Concerns expressed by Jos Spelbos regarding the new conservation subdivision regulation.

It was decided by the Commission to address the concerns expressed by Mr. Spelbos at the public hearing scheduled for June 24th.

Mr. Wyrick left the meeting at this point in time.

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.**

Mr. Manes moved to go into Executive Session for agenda items 10 and 11 at 8:35 p.m.. Mr. Weingarten seconded and the motion carried unanimously.

11. **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.**

Mr. Manes moved to come out of Executive Session for both agenda items 10 and 11 at 8:50 p.m. Mr. Weingarten seconded and the motion carried unanimously.

12. 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.

Mr. Manes moved to follow any legal direction provided by counsel and asked Ms. Hayes to keep the Commission up to date on the status of this case. Mr. Weingarten seconded and the motion carried unanimously.

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13. 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.

Mr. Moved moved to follow any legal direction provided by counsel and asked Ms. Hayes to keep the Commission up to date on the status of this case. Mr. Weingarten seconded and the motion carried unanimously.

ADJOURNMENT

Mr. Manes moved to adjourn at 8:51 p.m.

Respectfully submitted,

Donna M. Hayes

Donna M. Hayes, CZEO
Land Use Administrator

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