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*By Darlene Brady at 10:13 am, Feb 13, 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 beginning at 7:00 p.m. on Thursday, February 9, 2023.

**1. CALL TO ORDER**

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

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

Commissioners Present: Matthew Winter, Chairman; Karen Casey, Darrell Cherniske, Christopher Harrington, Alice Hicks, Adam Manes, Anne McAndrew, Wes Wyrick

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

Mr. Winter elevated Ms. McAndrew to voting status.

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

**3.A.** Regular Meeting Minutes of January 12, 2023.

*Mr. Manes moved to approve the Regular Meeting Minutes of January 12, 2023 as presented. Mr. Wyrick seconded and the motion carried unanimously.*

**3.B.** Special Meeting Minutes of January 19, 2023.

*Mr. Manes moved to approve the Special Meeting Minutes of January 19, 2023 as presented. Mr. Wyrick seconded and the motion carried unanimously.*

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**3.C. Special Meeting Minutes of January 30, 2023**

*Mr. Manes moved to approve the Special Meeting Minutes of January 30, 2023 as presented. Mr. Wyrick 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 118-22SP and 117-22C, Soo Zin Hugh and Jeffrey Kane Weiser, Trustees, 100 North Main Street, Map 19 Block 42 Lot 1, renovation of existing barn into a 2-bedroom accessory dwelling unit.

Mr. Winter continued the public hearing at 7:05 p.m. and informed the Commission that the applicant had requested that this be continued to the next regular meeting.

*Mr. Manes moved table to the next regular meeting. Mr. Wyrick seconded and the motion carried unanimously.*

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

- 5.B.1.** Application #s 118-22SP and 117-22C, Soo Zin Hugh and Jeffrey Kane Weiser, Trustees, 100 North Main Street, Map 19 Block 42 Lot 1, renovation of existing barn into a 2-bedroom accessory dwelling unit.

*Mr. Manes moved to continue the public hearing to the next regular meeting. Mr. Wyrick seconded and the motion carried unanimously.*

**5.B.2. Regular Member Vacant Position**

See the discussion after agenda item 7.A.

**6. NEW BUSINESS:**

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

- 6.A.1.** Application #s 09-23C and 10-23SP, Kent Center, LLC (Leigh Garofalow, applicant), 9 Maple Street, Map 9, Block 42, Lot 35, Installation of EV Charger.

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Mr. Winter opened the public hearing at 7:07 p.m. and read the legal notice into the record.

Ms. Kern explained that this was the first EV charger application since the new regulation was put in place. She referred the Commission to the application which supplies all the information required.

Ms. Garofalow is representing Kent Center, LLC. Mr. Manes asked if there was an agent letter authorizing her to represent the property owner. Ms. Garofalow explained that she is authorized to speak on behalf of the property owner and has been doing so for the past few years. Both Mr. Wyrick and Mr. Manes know Ms. Garofalow so Mr. Winter asked the Commission members if they had an issue moving forward; no one objected and the application moved forward.

Mr. Winter asked that the parking agreement within the complex be updated to show the change due to the fact that two parking spaces will now be dedicated to the EV chargers. Mr. Winter asked for a site plan showing the side yard setbacks. Ms. Kern said that according to the EV new regulation, side yard setbacks are not considered. There was a question regarding front yard and side yard designations and it was determined that the front yard setback would be Maple Street and the side yard would be North Main Street. Ms. Garofalow explained that the chargers were going to be placed behind the building identified as #16. Ms. McKay was also present and explained that the ballards had been placed on the most recent site plan at the request of Ms. Kern.

Mr. Winter asked for more information on the screen on the front of the charger. Ms. Garofalow said that the screen will remain static until the charger is turned on. She explained that the charger can charge two EVs and it is a level 2 charger.

Mr. Winter said that he would withdraw his request for a new site plan since the new information that was discussed during the meeting was sufficient. He then asked about parking space striping. Ms. Casey asked what would happen if someone parked in the spots and was not charging their car. Mr. Manes said that would be left up to the property owner to regulate. Mr. Winter said that he would like to see a change to the regulations regarding striping the parking spots. He would also like to see wheel stops in addition to the ballards.

Mr. Wyrick said that he felt the application was complete and the proposed location is a good location. Mr. Winter said that this application fits well with the POCD and agrees with Mr. Wyrick. Mr. Manes asked if the applicant had a problem with the request for wheel stops. Ms. Garofalow said that she had no objection but she was not sure how quickly she could obtain them.

*Mr. Manes moved to close the public hearing at 7:40 p.m. Mr. Wyrick seconded and the motion carried unanimously.*

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

**6.B.1.** Application #s 09-23C and 10-23SP, Kent Center, LLC (Leigh Garofalow applicant), 9 Maple Street, Map 9, Block 42, Lot 35, Installation of EV Charger.

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Ms. Hicks asked if requiring the wheel stops would be setting a precedent for future applications. Mr. Wyrick said he believes the regulation was set up to be site specific. Mr. Winter asked if the Commission felt they were satisfying the needs of the regulation. Mr. Manes said that he felt they were. Mr. Wyrick said that the designated spaces will interfere with the parking. Mr. Winter said that the shared parking agreement should be updated and would like to make that a condition of approval and that it should be received before the permit is issued.

*Mr. Manes moved to accept waivers to sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13. Mr. Cherniske seconded and the motion carried unanimously.*

*Mr. Wyrick moved to approve Application #s 09-23C and 10-23SP, Kent Center, LLC (Leigh Garofalow applicant), 9 Maple Street, Map 9, Block 42, Lot 35, Installation of EV Charger with two conditions: 1: that concrete stops be placed before each charger, and; 2: and that the applicant supply the Land Use Office with an updated shared parking agreement. Mr. Manes seconded and the motion carried unanimously.*

**6.B.2** Application # 05-23C, Kent Green, LLC (John Casey, applicant), 4 Landmark Lane, Map 19, Block 42, Lot 43, Change of use from artist studio to retail.

Ms. Kern explained that she had no concerns. Mr. John Casey was present to answer any questions. He explained that the tenant in Bldg #12, Green Pastures Lane, was moving out of its current location due to the need for larger space. The tenant had previously been an approved business.

*Mr. Manes moved to accept waivers to sections 3, 5, 6, 7, 8, 9, 10, 11, 12. Mr. Cherniske seconded and the motion carried unanimously.*

*Mr. Manes moved to approve Application # 05-23C, Kent Green, LLC (John Casey, applicant), 4 Landmark Lane, Map 19, Block 42, Lot 43, Change of use from artist studio to retail. Mr. Wyrick seconded and the motion carried unanimously.*

**6.B.3.** Application # 07-23C, Kent Green, LLC (John Casey, applicant), 2 Green Pastures Lane, Map 19, Block 42, Lot 43, Change of use from retail to personal service.

Ms. Kern said that she had no concerns and that she verified parking requirements. Mr. Casey said that an esthetician would be moving into the spot. The business owner is currently in the process of being licensed by Torrington Area Health District.

*Mr. Manes moved to accept waivers to sections 3, 5, 6, 7, 8, 9, 10, 11, 12 and 13. Mr. Cherniske seconded and the motion carried unanimously.*

*Mr. Manes moved to approve Application # 07-23C, Kent Green, LLC (John Casey, applicant), 2 Green Pastures Lane, Map 19, Block 42, Lot 43, Change of use from retail to personal service. Mr. Wyrick seconded and the motion carried unanimously.*

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- 6.B.4.** Application # 16-23C, Veronique & Oliver Kinsey, 28 Iron Mountain Rd., Map 10, Block 41, Lot 23, Inground swimming pool with pool lights, relocation of septic system, access road and associated site work and tree cutting.

Ms. Kern explained that the application was before them due to the fact that the entire property is located within the HorizonLine; she referred the Commission to the Staff Report she supplied.

Ms. Kinsey explained that the pool will be placed in the open area in the backyard which necessitates the relocation of the existing septic tank and field. One 12” tree will need to be removed in order to accommodate the leaching fields.

Mr. Wyrick asked what the elevation was. Ms. Kinsey said that it was about a 4’ change. Mr. Devon Dobson, pool installer, said that they were not sure how much they were going to have to remove but it would be graded downgradient. Ms. Kinsey said that Mr. Gawel will be installing the septic and he will be bringing in fill as indicated on the application. Mr. Wyrick felt that the pool might have to be realigned. Mr. Dobson said that retaining walls will be installed to accommodate the grades. Mr. Winter said there will be a retaining wall between the house and the pool but did not see anything regarding the contours on the downgradient side. Mr. Dobson said that a series of 3’ high retaining walls would be installed. Mr. Winter asked that they be installed on the site plan.

Mr. Winter asked if this can be seen from Richards Road and the answer was no. He asked about the little clearing that will need to be done for the new septic system. Ms. Kinsey said that there are hundreds of larger trees on their property and that the removal should not impact the view. Mr. Wyrick said that he was up there and felt that it was very private. Mr. Cherniske said that he has been up there as well and felt that moving the septic instead of cutting down multiple trees to install the pool would be less invasive. Pictures of the property were shared with the Commission.

*Mr. Manes moved to accept waivers to sections 7, 8, 9, 10, 11, 12 and 13. Mr. Wyrick seconded and the motion carried unanimously.*

Ms. Hicks asked about lighting. Ms. Kinsey said that the only lights to be added are in the pool due to the proximity of the pool to the house.

*Mr. Manes moved to approve Application # 16-23C, Veronique & Oliver Kinsey, 28 Iron Mountain Rd., Map 10, Block 41, Lot 23, Inground swimming pool with pool lights, relocation of septic system, access road and associated site work and tree cutting. Mr. Wyrick seconded and the motion carried unanimously.*

## **7. STAFF REPORT**

### **7.A. Commissioner Training**

Mr. Winter explained that this comes from the new State Statute. Ms. Kern explained that 4 hours of training are required by 3/1/2024. This time must include one hour on Affordable Housing. The NWCOG has been sending out information regarding the training opportunities which Ms. Kern recommended. She referred them to the Land Use Academy of UCONN CLEAR. Ms. Kern said that

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she and Mr. Winter had a discussion about holding FOIA training in conjunction with ZBA. Atty Zizka can also be asked to do training sessions. Ms. Kern recommended that the Commission start after the work on the regulations and sub-division regulations was completed.

Mr. Wyrick asked about ramifications for not attending and Ms. Kern said that nothing had been determined at this time.

Ms. Kern referred the Commission back to agenda item 5.B.2. which was skipped. Mr. Winter asked for any comments and Ms. Hicks said that she would like some more time to finalize a couple of recommendations.

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

### **8.A. Resolutions – Denial v. Approval**

Mr. Winter said that he requested this be put on the agenda so that the Commission could be on the same page. Ms. Kern said that Roberts Rules says to start with the positive first and if the application is denied during this process then the Resolution of Denial should be discussed. Mr. Winter agreed with Ms. Kern.

Mr. Winter shared his Standard Operating Procedure with the Commission. The Commission agreed with his recommendations and Ms. Hicks asked that they be sent out. Mr. Winter asked Ms. Kern to remove #9 before they are forwarded to the Commission.

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

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

Documentation received; no action taken.

### **9.B. CT Federation of P&Z Quarterly Newsletter – Winter 2023**

Documentation received; no action taken.

### **9.C. CFPZA Invitation**

Documentation received; no action taken.

### **9.D. Desegregated CT Request**

Ms. Kern asked if the Commission was interested. If not, she can graciously decline. Mr. Winter asked that it be kept on the agenda until next month.

### **9.E. Kent Falls Brewing Company – NOPV Discussion**

Mr. Winter said that this was a discussion between the property owner and the Commission since this was not a public hearing.

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Ms. Kern said that Mr. Labendz had gone before the Board of Selectmen regarding food trucks. After doing some research it was determined that there appears to be violations happening on the property. The NOPV was sent out and both Mr. Birnbaum and Mr. Labendz responded immediately.

Mr. Winter said there are two special permits; one for the tastings and one for the farm stand. They came into play after the special permit was granted to the property owner for the brewery itself. Mr. Winter asked that Mr. Labendz advise the Commission what is being done. Ms. McAndrew asked if the special permit was for a farmstand or a farmer's market. Mr. Winter said that it was for a farmstand.

Mr. Labendz explained that since receipt of the letter they are now offering 2 oz pours, the sale of their chickens and pork and retail sale of beer for offsite consumption. He asked for further explanation on what the brewery is being perceived as operating. Mr. Winter said that there have been comments that they are operating as a bar. Mr. Labendz did not agree and asked for more information. Mr. Winter said that it would be four 2 oz pours of 4 separate beers and possibly purchasing some for offsite consumption. Mr. Labendz said that he did not believe that was what was intended. Mr. Winter said that Mr. Labendz should return to the minutes of what was approved and if there is some misunderstanding, he should return to the Commission.

Mr. Labendz said that he would come back to the commission via a public hearing next month to address the issues. Mr. Winter suggested that if Mr. Labendz wanted to do something different from the original approval, he come back before them with a modification request.

Mr. Labendz said that he appreciates the approach and will move forward with a modification. He would also like to pursue the holding of a farmer's market. Mr. Winter suggested that he would have to work with Ms. Kern on this. Ms. Kern said that there is no accommodation for a farmer's market in the rural zone and the regulations would have to change. Mr. Labendz asked if the farmer's market that is held by the Kent Land Trust in the rural zone would be setting precedent. Ms. Kern said that she would look into the matter and get back to him and the Commission.

Ms. Kern asked about music and said that the most recent liquor license allowed acoustic guitar and magicians. She asked if this was still applicable. Mr. Winter did not think so and said that it should be included in the special permit.

Mr. Labendz said that he will speak with Ms. Kern about the timing to ensure their inclusion on the March agenda.

- 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.**

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With nothing to report, the Commission did not go into executive session.

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.

*Mr. Manes moved to continue agenda items 12 and 13 to the next regular meeting. Mr. Cherniske seconded and the motion carried unanimously.*

14. **ADJOURNMENT**

*Mr. Wyrick moved to adjourn at 9:02 p.m. Mr. Cherniske seconded and the motion carried unanimously.*

Respectfully submitted,

*Donna M. Hayes*

Donna M. Hayes, CZEO  
Assistant Land Use Administrator

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