**TOWN OF KENT**

**PLANNING AND ZONING COMMISSION**

**41 Kent Green Boulevard P.O. Box 678**

**Kent, CT 06757**

**Phone (860) 927-4625 Fax (860) 927-4541**

**May 14, 2020 REGULAR MEETING MINUTES**

**VIA ZOOM CONFERENCE**

The Town of Kent Planning and Zoning Commission held a regular meeting on Thursday**, May 14, 2020 at 7:00 p.m**.

1. **CALL TO ORDER**

Chairman Winter called the meeting to order at 7:07 p.m.

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

Commissioners Present: Matt Winter, Karen Casey, Wes Wyrick, Marc Weingarten,

 Darrell Cherniske, Alice Hicks, David Birnbaum, Adam Manes,

 Anne McAndrew

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

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

* 1. Regular Meeting Minutes of April 9, 2020.

It was noted thatAdam Manes should be listed as being present.

*Mr. Weingarten moved to approve the Regular Meeting Minutes of April 9, 2020 as corrected. Mr. Manes seconded and the motion carried unanimously.*

1. **PUBLIC COMMUNICATIONS (ORAL):** N/A

1. **OLD BUSINESS:**

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

* 1. **DISCUSSION AND POSSIBLE DECISION**

* + 1. Discussion on creating a revised definition of “convalescent home” or similar institutional term.

*Mr. Manes moved to table discussion on creating a revised definition of “convalescent home” or similar institutional term. Mr. Weingarten seconded and the motion carried unanimously.*

* + 1. Planning schedule for the rewrite of the Subdivision Regulations dated June 1, 1995.

*Mr. Manes moved to table planning schedule for the rewrite of the Subdivision Regulations dated June 1, 1995. Mr. Cherniske seconded and the motion carried unanimously.*

1. **NEW BUSINESS:**

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

* + 1. Application #’s 13-20SP and 14-20C, Arthur H. Howland & Associates, PC, for Geoffrey

Smith and Jamie Levitt, 85 Fuller Mountain Road, Map 2 Block 7 Lot 6, construction of 3-bedroom accessory dwelling unit and associated site work. (Application information was provided at the April meeting.)

The public hearing was opened at 7:15 pm

A notice of public hearing was published on the Town of Kent website; therefore, the reading of the public hearing notice was waived.

Paul Szymanski presented the plan and confirmed that this proposal complies with the special permit requirements. The group was reminded that there is no longer a size requirement for accessory dwelling units. Donna Hayes noted that she has no concerns to report regarding this proposal. Mr. Szymanski reported that there is a private well and septic proposed for this site that has been approved by TAHD.

Mr. Winter looked for comments from the members or public. There were none.

*Mr. Weingarten moved to close public hearing at 7:25 pm Application #’s 13-20SP and 14-20C, Arthur H. Howland & Associates, PC, for Geoffrey Smith and Jamie Levitt, 85 Fuller Mountain Road, Map 2 Block 7 Lot 6, construction of 3-bedroom accessory dwelling unit and associated site work. Mr. Cherniske seconded and the motion carried unanimously.*

*Mr. Manes moved to approve Application #’s 13-20SP and 14-20C, Arthur H. Howland & Associates, PC, for Geoffrey Smith and Jamie Levitt, 85 Fuller Mountain Road, Map 2 Block 7 Lot 6, construction of 3-bedroom accessory dwelling unit and associated site work.. Mr. Weingarten seconded and the motion carried unanimously.*

**6.A.2.** Modification to Application #43-15SP, 33 Camps Road, LLC, 33 Camps Road, Map 17 Block 28 Lot 30; **modification to include an additional day for seasonal tours, tastings and retail sales.**

David Birnbaum recused himself.

The legal notice of this public hearing was read by Chairman Winter.

The public hearing was opened at 7:32 pm.

Donna Hayes explained that the modification would allow the tastings, tours and sales to be open to the public Saturday, Sunday and two other days during the work week.

Barry Labendz explained that they are open currently Thursday and Friday 2 pm to 7 pm and Saturday 12-5 pm. They would like to add Sunday 12-5 pm as well. Anne McAndrew questioned how many people would come through on a typical Saturday. Barry reported that it could be up to 100 people and would think that might be spread out between the two days if the modification is permitted.

Mr. Winter looked for comments from the public. No one came forward. The inquired regarding complaints. Donna Hayes advised that any complaints have been directed to and addressed by Barry Labendz. Mrs. Hayes reported that she has not received any public comment regarding the proposal to extend the hours.

Alice Hicks questioned whether this is a slippery slope to the possibility of having a commercial business open 7 days per week in a rural zone. Adam Manes noted that he does not feel that by accepting this modification is setting a precedent that the Commission would have to approve additional days down the line. Matt Winter noted that they are hearing from the limited people present that the impact is small.

Barry Labendz confirmed that they are not changing what they have been previously been approved for with regard to their business plan and what occurs on the site. He does not see this as having as a major impact on the neighborhood.

David Birnbaum commented as a business partner that he would not like to see the operation be open to the public an excess of four days.

Darrel Cherniske noted that issues had been raised during the original public hearing for this activity and they have proven to be an exemplary business. Marc Weingarten agreed and noted that there are no objections.

*Mr. Weingarten moved to close public hearing at 7:54 pm for the Modification to Application #43-15SP, 33 Camps Road, LLC, 33 Camps Road, Map 17 Block 28 Lot 30;* ***modification to include an additional day for seasonal tours, tastings and retail sales.*** *Mr. Manes seconded and the motion carried unanimously.*

*Mr. Manes moved to accept the modification to Application #43-15SP, 33 Camps Road, LLC, 33 Camps Road, Map 17 Block 28 Lot 30;* ***modification to include an additional day for seasonal tours, tastings and retail sales.*** *Mr. Weingarten seconded and the motion carried unanimously.*

David Birnbaum was reseated.

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

**6.B.1.** Modification to Application #74-17C, Hiram Williams for Kent Center, LLC, 10 North Main Street, alterations to existing building and change of use from residential/commercial to commercial, Map 19 Block 42 Lot 29. **Modifications to include: new configuration of the required second means of egress from the existing gallery; installation of two (2) accessibility ramps; outdoor terrace associated with the retail space at the south east corner of the new addition; creation of one service yard to house required mechanical systems; relocation of three parking spaces; and, respective changes to the approved planting plan.**

Donna Hayes reported that the applicant had come across some issues in order to bring the building up to code since the approval of this application. She explained that a new set of stairs was needed for egress, which drove the additional modifications. The egress stairs extend into the side yard setback; however, according to the Fire Marshal these stairs are not considered a fire escape which would be permitted to extend up to 4 feet into the setback.

Hiram Williams explained that at the time of approval they knew they would have to return for the hardscape plan. Chris Lee and Tom Chang further discussed the plan. Chris Lee explained that this can be a potential second fire escape should a tenant increase the occupancy. Mr. Lee reviewed the changes to the plan. He noted the need for a service yard for refuse and mechanical equipment. They have worked to minimize the footprint of the mechanical equipment. The equipment will be contained with refuse in a limited space.

Marc Weingarten discussed the egress / fire escape. Mr. Lee confirmed that they do meet code with the exception of snow cover requirements. Both stairways were designed to be fire egress stairs. It was explained that this matter will be worked through with the Fire Marshal and Building Inspector. The plan will also need approval by the Architectural Review Board.

The group discussed encroachment. Adam Manes did not find issue with the stairway’s encroachment. Wes Wyrick questioned whether an appeal to the Zoning Board of Appeals would be required regarding the stairs. Hiram Williams discussed a lot line revision for parking lot and it was confirmed that this would have to go before this Commission for approval. Donna Hayes reported that the building itself is encroaching on the setback even more than the stairs by about a foot. Chris Lee noted that the encroachment by the stairs is 10 inches. Donna Hayes stated that she does not believe this would need to go before the ZBA.

The Commission agreed to continue discussion for the lot line revision, a determination from the Building Official and Fire Marshal regarding the snow cover requirement and Architectural Review Board determination. Donna Hayes requested that parking lines be marked. The Commission noted that this plan is an improvement.

*Mr. Manes moved to table the modification to Application #74-17C, Hiram Williams for Kent Center, LLC, 10*

*North Main Street, alterations to existing building and change of use from residential/commercial to commercial, Map 19 Block 42 Lot 29.* ***Modifications to include: new configuration of the required second means of egress from the existing gallery; installation of two (2) accessibility ramps; outdoor terrace associated with the retail space at the south east corner of the new addition; creation of one service yard to house required mechanical systems; relocation of three parking spaces; and, respective changes to the approved planting plan.*** *The motion was seconded by Ms. Hicks and carried unanimously.*

**6.B.2.** Modification to Applications #106-18SP and 107-18C, by High Watch Recovery Center, Inc., for 54 Carter Road (Map 14 Block 22 Lot 6); 62 Carter Road (Map 14 Block 22 Lot 7); and the 15.48-acre unimproved parcel of land (Map 14 Block 21 Lot 23, Parcel I.D.

#1486) abutting the northerly line of Carter Road and the southeasterly line of 47 Carter Road, for a special permit and site plan approval for the following: Construction of twostory addition (including offices, 218-seat lecture hall and 12-bed detoxification wing) to existing administrative and clinical office building at 62 Carter Road; single story addition and kitchen expansion to dining hall at 62 Carter Road; addition of detoxification service at 62 Carter Road; increase in total residential in-patient bed count from 78 to 90 at 62 Carter Road; conducting therapeutic activities (including temporary housing of staff) associated with the treatment of drug and alcohol addiction at 54 Carter Road; constructing expanded landscaping/vegetative screening, driveway entrance, parking area, retaining wall and stormwater detention basin at 54 Carter Road and 62 Carter Road; constructing new septic system on Parcel I.D. #1486; and associated site work on all three parcels. **Modifications to include: construction of exterior staircase; proposed future metal gazebo; creation of 3 additional detox therapy/group session rooms; creation of 5 additional office spaces; creation of elevated walkway from second floor of detox building; associated roofline adjustment due to creation of additional office spaces; removal of two-tiered wall system; removal of connecting sidewalk at the northeast corner of the pharmacy; slight site alterations due to an additional egress stair; new exterior walk-in cooler and freezer; and, reduction of parking spaces.**

Wes Wyrick and Darrell Cherniske recused himself and left the meeting at 8:36 pm.

Anne McAndrew and David Birnbaum were elevated to voting status.

Paul Jorgenson of Silver Petrocelli. Jason Perrillo of High Watch explained that they have identified things that will keep their guest and staff safe. They looked for isolation spaces and they propose two additional bedrooms for this purpose; however, they will not increase patients. By doing this, they lost office space. Additionally, they decided that it would make more sense to move the admissions area in an effort not to track new patients through the building. This created a need to add office space in the admissions area. The disturbance to the stairway is not visible. He noted that there are some changes to the roof line as well. He explained that they poured the foundation in hopes that the Commission would make these approvals so they could be ready to make these changes.

Chairman Winter asked the Commission whether this modification would require a public hearing. He reminded the group that the original approval was a Special Permit that required a public hearing. Karen Casey noted that a public hearing is a requirement for a special permit. Mr. Manes stated that this is significant enough to require public hearing. Anne McAndrew agreed and felt that the neighbors deserve a chance to speak out. Marc Weingarten explained that he feels the public should be allowed to comment regarding this modified approval. Alice Hicks did not feel this was a minor modification; therefore, should go to a public hearing. Mr. Winter noted that the reconfiguration and additional foundation outside the original foot print warrants a public hearing.

*Mr. Manes moved to set a public hearing for June for modification to Applications #106-18SP and 107-18C, by*

*High Watch Recovery Center, Inc., for 54 Carter Road (Map 14 Block 22 Lot 6); 62 Carter Road (Map 14 Block 22 Lot 7); and the 15.48-acre unimproved parcel of land (Map 14 Block 21 Lot 23, Parcel I.D. #1486) abutting the northerly line of Carter Road and the southeasterly line of 47 Carter Road, for a special permit and site plan approval for the following: Construction of two-story addition (including offices, 218-seat lecture hall and 12-bed detoxification wing) to existing administrative and clinical office building at 62 Carter Road; single story addition and kitchen expansion to dining hall at 62 Carter Road; addition of detoxification service at 62 Carter Road; increase in total residential in-patient bed count from 78 to 90 at 62 Carter Road; conducting therapeutic activities (including temporary housing of staff) associated with the treatment of drug and alcohol addiction at 54 Carter Road; constructing expanded landscaping/vegetative screening, driveway entrance, parking area, retaining wall and stormwater detention basin at 54 Carter Road and 62 Carter Road; constructing new septic system on Parcel I.D. #1486; and associated site work on all three parcels.* ***Modifications to include: construction of exterior staircase; proposed future metal gazebo; creation of 3 additional detox therapy/group session rooms; creation of 5 additional office spaces; creation of elevated walkway from second floor of detox building; associated roofline adjustment due to creation of additional office spaces; removal of two-tiered wall system; removal of connecting sidewalk at the northeast corner of the pharmacy; slight site alterations due to an additional egress stair; new exterior walk-in cooler and freezer; and, reduction of parking spaces.*** *Mr. Weingarten seconded and the motion carried unanimously.*

1. **STAFF REPORT:**

* 1. Follow-up on installation of 3rd trailer at 62 Carter Road, High Watch Recovery Center Inc, Map 14 Block 22 Lot 7.

Donna Hayes reported that the 3rd trailer is in and permitted. She reminded the Commission that they authorized her to issue an administrative permit once the approval by TAHD was received; that approval was granted after a site walk was held. The trailer is conditioned as temporary and should be removed once the Governor lifts his emergency order.

* 1. Outdoor dining procedure – see §4130.

Donna Hayes discussed Governor Lamont's Executive Order allowing the ZEO the ability to act on these applications. She is working in conjunction with the Building Official, Fire Marshal and TAHD. The permits are free. A site plan will be required. It does not have to be an A2 survey. A form and the guidelines will be available on the website. She reported that some businesses have already contacted her about outdoor seating. It was confirmed that the Executive Order supersedes anything that is within the Zoning Regulations. This will be temporary until the Governor lifts his order. Her concern is what happens once all this over. She is not sure those businesses with outdoor seating currently has been approved for it. When all this is over, she would like to confirm everyone is within the Regulations.

The group discussed a Building Application to add a door to Gifford’s and the owner’s feelings that Kent Coffee’s drive through window warranted this to also be permitted. She explained that Kent Coffee was permitted because it was an existing permitted walk-up window that would be used as drive-through temporarily. Chairman Winter shared the photo of the door proposed at Gifford’s. The Commission agreed that the proposed door is in a dangerous spot and this is not the same kind of change as Kent Coffee’s existing window.

The group discussed the Kent Coffee’s drive-through window and an extension to allow it to continue for Covid 19 safety purposes.

Mr. Manes moved to extend Kent Coffee’s drive-through window from May 20 to June 20. The motion was seconded by Ms. Casey and the motion was carried unanimously.

1. **REPORT OF OFFICERS AND COMMITTEES:**

* 1. Subdivision Regulation Sub-Committee - previously discussed.

1. **OTHER COMMUNICATIONS AND CORRESPONDENCE:**

* 1. Administrative Permits and Certificates of Compliance – April 13, 2020 – May 8, 2020. Received

* 1. Monthly Financials – July ’19 – XXXX ‘20 - Not available.

* 1. Connecticut Federal of Planning and Zoning Agencies *Quarterly Newsletter,* Spring 2020 Received.

1. **Open session involving discussion and possible action on Pending Litigation: The Roberti Family, LLC v. Town of Kent, Connecticut and Kent Planning and Zoning Commission of the Town of Kent, Connecticut.**

 **Due to the COVID-19 pandemic, the Executive Session to discuss the pending litigation was held at a special meeting beginning at 6:30 p.m. on May 14, 2020.**

No action taken. Based on discussion during executive session it was determined that the Commission would follow the lead of the legal team.

1. **Open session involving discussion and possible action on Potential Litigation: High Watch Recovery Center Main Project Proposed Design Changes.**

 **Due to the COVID-19 pandemic, the Executive Session to discuss the pending litigation was held at a special meeting beginning at 6:30 p.m. on May 14, 2020.**

No action taken. Based on discussion during executive session it was determined that the Commission would follow the lead of the legal team.

**ADJOURNMENT**

*Mr. Weingarten moved to adjourn at 9:37 p.m. Ms. Casey seconded and the motion carried unanimously.*

Respectfully submitted,

*Tai Kern*

Tai Kern, Land Use Clerk RECEIVED BY TOWN CLERK

 MAY 19, 2020 @ 2:00 PM