

**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

**MARCH 10, 2016 REGULAR MEETING MINUTES**

The Town of Kent Planning and Zoning Commission held a regular meeting on Thursday, March 10, 2016 at 7:00 p.m. in the Kent Town Hall.

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BY *Donna Hayes*  
TOWN CLERK

**1. CALL TO ORDER**

Mr. Johnson called the meeting to order at 7:03 p.m.

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

Commissioners Present: John Johnson, Chairman; Karen Casey, Darrell Cherniske, Alice Hicks, Adam Manes, Anne McAndrew, Matt Winter, Marc Weingarten, Wes Wyrick

Staff Present: Donna Hayes, Land Use Administrator

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

**3.A. Special Meeting Minutes of February 11, 2016**

Mr. Winter commented that he did not think that "shopping center" was mentioned during the meeting as much as it was recorded in the minutes. After discussion, it was decided to leave it as is. He also said that the word "gleamed" in the third paragraph on page 3 should be changed to "gleaned".

*Mr. Winter moved to approve the Special Meeting Minutes of February 11, 2016, as corrected. Mr. Cherniske seconded and the motion carried unanimously.*

**3.B. Regular Meeting Minutes of February 11, 2016.**

*Mr. Winter moved to approve the Regular Meeting Minutes of February 11, 2016, as written. Mr. Cherniske seconded and the motion carried unanimously.*

**4. PUBLIC COMMUNICATIONS (ORAL):**

No action taken.

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## **5. OLD BUSINESS:**

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

No action taken.

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

#### **5.B.1. Application #97-15C, 3 Maple Street, LLC, change of use from retail to restaurant, Map 19 Block 42 Lot 33.**

Messrs. Cherniske, Manes and Wyrick recused themselves from this discussion.

Mr. Johnson elevated Ms. McAndrew and Mr. Weingarten to voting status.

Mr. Johnson commented that the applicant's attorney had requested that the application be continued to either a special hearing on March 17 or to the next regular meeting on April 14 since neither of the owner's representatives were available for this meeting. Mr. Johnson told the Commission that the Land Use Office had received a legal opinion from Attorney Brian R. Smith of Robinson and Cole, attorneys for the property owner, that he would like to have reviewed by Attorney Zizka. Since he was not inclined to have another special meeting, Mr. Johnson suggested that the application be continued to the next regular meeting. Mr. Winter agreed saying that he felt it would be better for the owner's representatives to be present. He also asked to see the correspondence from Attorney Smith.

Mr. Johnson asked Mr. Williams if he had any comment to which he replied, "No". Mr. Johnson explained to those in the audience that there would not be another public informational meeting and that the next meeting would be discussion by the Commission only.

*Mr. Winter to moved to accept the applicant's authorization for an extension of time and moved to continue the discussion to the next regularly scheduled meeting in April. Mr. Weingarten seconded and the motion carried unanimously.*

Messrs. Cherniske, Manes and Wyrick returned to the meeting.

Mr. Johnson returned Ms. McAndrew and Mr. Weingarten to non-voting status.

*Mr. Manes moved to add items 9G and 9H to the agenda. Mr. Winter seconded and the motion carried unanimously.*

#### **5.B.2. Rewrite of Zoning Regulations**

Ms. Hayes informed the Commission that Attorney Zizka received the proposed regulations along with the summary of changes. When asked if she had any idea when she might be receiving his comments, Ms. Hayes replied that she did not.

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## **6. NEW BUSINESS:**

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

No action taken.

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

#### **6.B.1. Application #11-16C, Kent Coffee for Kevin Hart & Quarter Mile Co, LLC, 45 North Main Street, change of use from bank to coffee/chocolate shop, Map 19 Block 15 Lot 14.**

Ms. McAndrew recused herself from this discussion.

Ms. Hayes explained to the Commission that the application was for a change of use to the now empty Bank of America building located at 45 North Main Street. She presented the Commission with a revised site plan which showed information that she had requested of the applicant. Ms. Hayes said that according to her Staff Report and site plan review, there were a few issues that would need to be addressed in order to meet the current zoning regulations. One has to do with the lack of a buffer area (section 18.4.2.) on the northerly side of the building as it abuts directly up to Johnson Road. The Commission could approve appropriate screening (section 18.4.2.c.), but there is not enough room for that. Issue #2 relates to the buffer required within 6 feet of the building (section 18.4.3.). Currently, the front parking spaces are within 3' of the front of the building while a buffer along the northerly side of the building is approximately 2'. Thirdly, Section 17.6.4. requires that there be screening adjacent to residential properties and parking should be screened from view of the street. Because this is a pre-existing non-conforming building, Ms. Hayes suggested that the applicant apply for variances to the above sections.

There was discussion regarding the use of the drive-up window to serve ice cream. Mr. Chris Garrity commented that Annie Bananie, located in an old bank on Bridge Street, has been using their old drive-up window as a "walk-up" window to serve ice cream. It was also mentioned that the Villager had "walk-up" ice cream service not too long ago. Mr. Garrity informed the Commission that the Building Official, Fire Marshal and Town Sanitarian had been through the building and were working with the applicant.

Since there are two apartments on the second floor which makes the building a special permitted use according to the current regulations, Ms. Hayes said that she did not think this application should be handled as a special permit since the change was not affecting the apartment usage. She pointed out that the apartments have been there since the building was built in 1983.

There being no questions for the applicant or comments by the applicant, the discussion ended.

*Mr. Manes moved to accept waivers to Sections 4.3.1., 4.3.3., 4.3.6., 4.3.7., 4.3.8., 4.3.9., 4.3.10., 4.3.11., 4.3.12., and 4.3.13. Mr. Cherniske seconded and the motion carried unanimously.*

*Mr. Manes moved to approve Application #11-16C, Kent Coffee for Kevin Hart & Quarter Mile Co, LLC, 45 North Main Street, change of use from bank to coffee/chocolate shop, Map 19 Block 15 Lot 14 contingent upon the applicant obtaining the appropriate variances. Mr. Wyrick seconded.*

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*During discussion, Mr. Winter asked that the lighting that will be installed above the sign be cut off, downward in nature and that the light bulbs would not be visible.*

*Mr. Manes accepted the addition; Mr. Wyrick seconded the addition and the motion carried unanimously.*

**6.B.2. Lot Line Revision, Heinz and Arlene Wipfler, 39 and 53 Anderson Acres Road, Map 16 Block 24 Lots 17 and 18.**

Mr. Brian Neff presented the application to the Commission. He explained that the Wipfler's owned two separate lots on Anderson Acres Road; one 7.101 acres and the other 17.163 acres. The new configuration of the lots will be 19.264 acres and 5.00 acres respectively. Mr. Neff told the Commission that the lot line revision had been approved by Torrington Area Health.

Mr. Winter questioned whether or not the house located at 53 Anderson Acres Road met the front yard setback. Mr. Neff replied that it did not and that this lot line revision could not and did not change that. Mr. Wyrick commented that this lot line revision did not increase that nonconformity.

Ms. Hayes expressed concern over the wording on the 24.264± Acres Property/Boundary Survey Map Showing Lot Line Revision Prepared for Heinz C. Wipfler, Arlene J. Wipfler, 39 & 53 Anderson Acres Road, Kent, Connecticut, (January 2016) by Roy V. Cheney, LLS. She explained that she had a discussion with Ms. Weber of the Torrington Area Health District about this as they both felt the wording was misleading as it implies that the two parcels would be combined into one. Mr. Neff agreed and said that both he and Ms. Weber had discussed the wording with Mr. Cheney and his reply was that the wording was in compliance with the State requirement. Ms. Hayes said that she was having this discussion on the record so that the Land Use files would accurately reflect that the lot line revision was for the transfer of 12.163 acres from 53 Anderson Acres Road to 39 Acres Road. The new configuration would be: 39 Anderson Acres Road, 19.264 acres; and, 53 Anderson Acres Road, 5.000 acres.

*Mr. Winter moved to accept Lot Line Revision, Heinz and Arlene Wipfler, 39 and 53 Anderson Acres Road, Map 16 Block 24 Lots 17 and 18. Mr. Wyrick seconded and the motion carried unanimously.*

**7. STAFF REPORT:**

*Mr. Winter moved to hear agenda item 7.A. at the end of the meeting. Ms. Casey seconded and the motion carried unanimously.*

**7.A. Executive Session. Pending Litigation: Planning & Zoning Commission of the Town of Kent Et Al v. Burt, Kenton L. Et Al, Docket No. LLI-CV-16-6013331-S in Litchfield Superior Court. Discussion of strategy and negotiations with legal counsel.**

*Mr. Manes moved to go into Executive Session at 8:02 p.m. Mr. Wyrick seconded and the motion carried unanimously.*

The Commission came out of Executive Session at 8:11 p.m.

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**7.B. Private Well Testing – Bulls Bridge Golf Course**

No action taken.

Ms. Hayes told those members of the Commission that were members of the Incentive Housing Zone Study Subcommittee that the next special meeting will be at 7:00 p.m. on the 29<sup>th</sup> of March.

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

No action taken.

**9. OTHER COMMUNICATIONS AND CORRESPONDENCE:**

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

No action taken.

**9.B. Northwest Hills Transportation Vision and Policies, Draft 1-11-16 and Regional Transportation Wish List, NWHCOG, as of 1-14-2016**

Mr. Johnson thought that it might be better if each member submitted their comments individually but felt that some consideration should be given to quiet crossings which would mitigate the affect on residents living along the railway and also by the Main Street crossing. He continued that any plan that they create should consider the effects of higher speed and the increase number of trains in Kent and the center of Town. Mr. Winter agreed.

**9.C. State of Connecticut, Connecticut Siting Council, February 9, 2016, Letter to First Selectman Adams, regarding Petition #1216.**

No action taken.

**9.D. State of Connecticut, Connecticut Siting Council, February 25, 2016, Agenda of Discussion on Petition #1216.**

No action taken.

**9.E. Northwest Hills Council of Governments Proposal/Overview, New 21-Town NHCOC Regional Plan of Conservation & Development**

No action taken.

**9.F. Monthly Financials: July 2015 – January 2016**

No action taken.

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**9.G. Northwest Hills Council of Governments Request to Designate a Regional PoCD Representative**

Since there were no volunteers, it was decided that Ms. Hayes would forward the email from the Northwest Hills Council of Governments to the Conservation Commission.

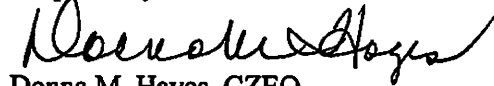
**9.H. NHCOC's "5<sup>th</sup> Thursday" Invitation**

No action taken.

**10. ADJOURNMENT**

*Mr. Manes moved to adjourn at 8:12 p.m. Ms. Casey seconded and the motion carried unanimously.*

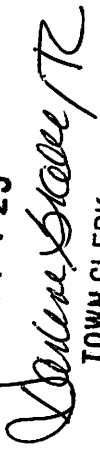
Respectfully submitted,



Donna M. Hayes, CZEO  
Land Use Administrator

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