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**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

**DECEMBER 12, 2019 REGULAR MEETING MINUTES**

The Town of Kent Planning and Zoning Commission held a regular meeting on Thursday, December 12, 2019 at 7:00 p.m. in the Kent Town Hall.

**1. CALL TO ORDER**

Chairman Johnson called the meeting to order at 7:00 p.m.

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

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

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

Adam Manes was elevated to voting status.

*Mr. Manes moved to add to the agenda item 6.B.6. Mr. Winter seconded and the motion carried unanimously.*

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

**3.A. Regular Meeting Minutes of November 14, 2019**

*Mr. Winter moved to approve the Regular Meeting Minutes of November 14, 2019. Mr. Manes seconded and the motion carried unanimously.*

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

**5. OLD BUSINESS:**

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

- 5.A.1.** Application #'s 90-19SP, 91-19C and 92-19F, The Kent School Corporation, 1 Macedonia Road, 9,000 sq. ft. addition to the existing "Admissions" building and associated site work, Map 4 Block 10 Lot 1.

The public hearing was reopened at 7:02 pm. A letter from Fire Department was read for the record questioning how the fire trucks will access the building.

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Dave Bjorkland came forward and reviewed the plans for this new addition. He noted that the storm water will be routed to a drywell. The sidewalk reconfiguration was reviewed. Mr. Bjorkland informed the Commission that the Housatonic River coalition approved the application without conditions. He reported that the Anchor Engineering review for the town was received. He addressed the concerns within the review and will comply with all of the engineering requests.

Geoff Gaunt of SLAM came forward and distributed photos of the building and the proposed floor plan. He explained that they will maintain the architectural vernacular. The existing building is below the floodplain. The addition will dip into the floodplain for the connection and then the balance of the building will rise one foot above the floodplain. All the standards that apply to the regulations will be met and they will apply to the town for the Flood Hazard Area Permit.

Joe Wolinski explained that admissions at all private schools are competitive. This addition is needed to house the existing admissions operations that is currently overcrowded. The existing building will be sprinkled and furnaces are to be replaced. It is imperative that the existing building and staff be moved to the new portion of the building in order to do this. There will not be any staff added. It was clarified that the existing vestibule will be removed and a new vestibule will be contained within the building.

Donna Hayes reported that the Fire Marshal and Building Official have reviewed the plan and found no issues.

Alan Gawel, Fire Chief, came forward and noted that their concern is that the access way be designed so that the ground is hard for fire truck. It was agreed that the pathway would be widened for close and easy access to the building.

Mr. Wolinski advised that the initial site work will begin in March, weather permitting. They would like to pour the new foundation in April and complete the project by November.

The existing lighting will be relocated to coordinate with the sidewalks. The building lighting is shown on the plan.

It was agreed that the public hearing would remain open until the January meeting so that Anchor Engineering and Fire Department's concerns are addressed and adjustment to the final plans are made. A letter of extension was submitted for the record.

*Mr. Manes moved to continue the public hearing for application #'s 90-19SP, 91-19C and 92-19F, The Kent School Corporation, 1 Macedonia Road, 9,000 sq. ft. addition to the existing "Admissions" building and associated site work, Map 4 Block 10 Lot 1. Mr. Winter seconded and the motion carried unanimously.*

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

- 5.B.1.** Proposed Change to Town of Kent Zoning Regulations: addition of the definitions of: "Retail Stores"; "Retail Stores – Firearm/Ammunition"; "Firearm"; and "Ammunition" and the inclusion of "Retail Stores – Firearm/Ammunition" as a special permitted use under Sections 4124, 4224 and 4324.

Chairman Johnson reminded the group that the public hearing has been closed and it is time for the Commission to discuss this matter. A decision must be made by the January meeting.

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Mr. Johnson noted that he does not like singling out uses; however, there are times when it is necessary. He felt the testimony by the private schools regarding the appearance of the town is worth considering.

Mr. Manes stated that he feels the regulation proposed is over restricted. He understands how the town may not want a gun shop on Main Street; however, this proposal restricts gun stores from many areas in town. The proposed regulation oversteps.

Mr. Winter explained that this comes down to community character. This is not a Second Amendment or safety discussion. He does not think what is wanted as the heart of the town was discussed enough at the public hearing. He explained that the Plan of Conservation and Development had a lot of input in this area and it was an overwhelming opinion by the townspeople to maintain the rural character. He does not feel that gun stores are defined as rural character.

Mr. Wyrick thinks a slippery slope when you start identifying uses that you do not like when it is not concerned with safety.

Mr. Cherniske does not think a setback will prevent gun violence. However, property value is within the Commission's charge. The private schools and those with second homes in Kent are a big part of this town. The character that appeal to that type of buyer may not include a gun store.

Ms. Casey is in favor of the proposed change. She does not think it is over restrictive. It crafts a setting where the ideal location would be for such a shop. The proposal is not taking away guns. She does not see where this harms anyone. They have to ask themselves what the community wants as an image.

Mr. Manes pointed out specific areas that are too restrictive the way the proposal is written. Ms. Casey suggested that they revise the regulation to allow gun stores by special permit.

Chairman Johnson reported that the Land Use Attorney advised changes can be made to this proposal as long as it does not change the initial intent. He read the opinion written by Mike Zizka's and noted that he does not feel comfortable rewriting the proposal on the fly. He feels if this had grown through the Commission they would be in a better position.

Mr. Wyrick noted he would support the proposed regulation by Special Permit.

Ms. Hicks stated that regardless of whatever way this regulation started, she does not see how it should affect the outcome. The group discussed the changes they would like to see made to this regulation and whether they would be considered major enough to warrant a new public hearing. Ms. Hicks stated that she feels this should be further discussed. There was not enough discussed at public hearing about the culture of the town with regard to the Plan of Conservation and Development.

Ms. Casey agreed that sight was lost of what this proposal actually was about at the public hearing. Special Permit would require a public hearing for each proposal allowing the Commission to see the entire picture.

Chairman Johnson distributed an e-mail dated October 7, 2019 from Michael Zizka suggesting changes to the definitions that would be considered minor and not require a new public hearing.

Mr. Cherniske noted that it seems that the only viable option agreeable to the members would be allowing this only by special permit. Donna Hayes suggested that this matter be tabled so that Attorney Zizka can be consulted on the Commission's proposed change.

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*Mr. Winter moved to continue discussion regarding Proposed Change to Town of Kent Zoning Regulations: addition of the definitions of: "Retail Stores"; "Retail Stores – Firearm/Ammunition"; "Firearm"; and "Ammunition" and the inclusion of "Retail Stores – Firearm/Ammunition" as a special permitted use under Sections 4124, 4224 and 4324. Mr. Cherniske seconded.*

*Discussion: Mr. Johnson is not in favor and feels this should be denied and then worked on separately by the Commission. Mr. Winter stated that he is not in favor of special permit process for this matter.*

*The motion carried 6-1. Johnson opposed*

- 5.B.2.** 2018 Annual Monitoring Report; Natural Resource Management Plan, Bull's Bridge, South Kent and New Milford, Connecticut, dated September 2019 and prepared by WSP USA (formerly Leggette, Brashears & Graham, Inc.)

- 5.B.2.a.** Request to reduce the sampling of GW-4 from 3x/year to annual.

The Commission agreed that after 20 years with no problems it seems reasonable to reduce testing of this one well to annually.

*Mr. Winter moved to approve the request to reduce the sampling of GW-4 from 3x/year to annual for Annual Monitoring Report; Natural Resource Management Plan, Bull's Bridge, South Kent and New Milford, Connecticut. Mr. Cherniske seconded and the motion carried unanimously.*

*Mr. Winter moved to move item 6.B.1 next on agenda. Mr. Cherniske seconded and the motion carried unanimously.*

- 6.B.1.** Review of letter to Lucia Chiocchio, Esq., regarding Homeland Towers, LLC and New Cingular Wireless PCS LLC ("AT&T") Proposed Wireless Telecommunications Tower Facility, Bald Hill Road – OR - 93 Richard Road, Kent, Connecticut.

Donna Hayes explained that because Kent has a regulation regarding telecommunications she drafted this letter informing the attorney for this matter that the proposals do not meet Zoning Regulations. She explained that they are not required to come before the Commission for this application as it is the Siting Council that is charged with making this decision.

*Mr. Winter moved to approve the letter to Lucia Chiocchio, Esq., regarding Homeland Towers, LLC and New Cingular Wireless PCS LLC ("AT&T") Proposed Wireless Telecommunications Tower Facility, Bald Hill Road – OR - 93 Richard Road, Kent, Connecticut. Mr. Cherniske seconded.*

*Discussion: It was clarified that the commission is not anti-cell tower, they would just like to see the proposal fall within the regulations.*

*The motion carried unanimously.*

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## **6. NEW BUSINESS:**

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

- 6.A.1.** Proposed Change to Town of Kent Zoning Regulations: removal of Sections 6200.5 and 6200.6 regarding the maximum size percentage of an accessory dwelling unit; clarification of Section 8320.2.b regarding where the maximum grade of a driveway shall begin; a correction of administrative errors to Sections 8172 and 8320.f. (inclusion of section numbers and correction of original section numbers) of the Town of Kent Zoning Regulations.

The public hearing was opened at 8:58 p.m. and the legal notice of this hearing was read for the record.

Donna Hayes explained that within the recent regulation changes was that an accessory dwelling could not be more than 33 percent of the main dwelling. Additionally, accessory dwellings cannot be metered separately. She reported that this has caused two issues since its adoption creating the need to increase the size of a principal dwelling in order to have an average size accessory dwelling. She noted there had never been an issue prior to this change.

Mr. Wyrick suggested that it be changed that an accessory dwelling merely not be larger than the main dwelling. Mr. Johnson noted that he does not see a reason for the percentage constraints. He believes this restricts a homeowner's flexibility. It was agreed that the Commission is not concerned where the power comes from for the accessory dwelling.

The correction to the numbering was agreed upon. The group discussed the proper wording for the area where the driveway grade begins. It was agreed this should be described as "the edge of the maintained street".

*Mr. Manes moved to close the public hearing at 9:17 pm for Proposed Change to Town of Kent Zoning Regulations: removal of Sections 6200.5 and 6200.6 regarding the maximum size percentage of an accessory dwelling unit; clarification of Section 8320.2.b regarding where the maximum grade of a driveway shall begin; a correction of administrative errors to Sections 8172 and 8320.f. (inclusion of section numbers and correction of original section numbers) of the Town of Kent Zoning Regulations. Mr. Winter seconded and the motion carried unanimously.*

*Mr. Manes made the following motion:*

**RESOLVED:** That the Kent Planning and Zoning Commission remove §6200.5, no accessory dwelling or guest house shall be metered separately from the principal dwelling for utilities.

**RESOLVED:** That the Kent Planning and Zoning Commission remove §6200.6, an accessory dwelling or guest house shall not exceed 33% of the floor area of principal dwelling unless other approved by the Commission due to a logical configuration of interior space.

**RESOLVED:** That the Kent Planning and Zoning Commission renumber:

6200.7 TO 6200.5

6200.8 TO 6200.6

6200.9 TO 6200.7

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**RESOLVED:** That the Kent Planning and Zoning Commission change the wording of the following sections:

**SECTION 8320.2.b.**

**FROM:**

The maximum grade of the first 15' of driveway adjacent to the street shall not exceed 5%.

**TO:**

The maximum grade of the first 15' of driveway from the edge of the roadway shall not exceed 5%.

**SECTION 8172**

**FROM:**

Signs may be illuminated externally provided they comply with the outdoor illumination standards in Section XX-XX and the limitations set forth below.

**TO:**

**SECTION 8172**

Signs may be illuminated externally provided they comply with the outdoor illumination standards in Sections 8630 and 8640 and the limitations set forth below.

**RESOLVED:** That the Kent Planning and Zoning Commission correct the wording of the following section:

**SECTION 8320.f.**

**FROM:**

A driveway may be any length, but the maximum grade shall not exceed the standard specified in Section 8340 (residential) or Section 8350 (non-residential).

**TO:**

A driveway may be any length, but the maximum grade shall not exceed the standard specified in Section 8330 (residential) or Section 8340 (non-residential).

*Mr. Winter seconded.*

*Discussion: Mr. Cherniske asked that if any issues arise that this matter be revisited.*

*The motion carried unanimously.*

**6.B.2. Approval of Regular Meeting Schedule of 2020.**

*Mr. Winter moved to approve the Regular Meeting Schedule of 2020. Mr. Manes seconded and the motion carried unanimously.*

**6.B.3. Planning and Zoning Commission procedures per Chapter 124 and 126 of the Connecticut General Statutes.**

Chairman Johnson reported that Ms. Hicks has had questions regarding procedures for complicated issues coming before the Commission. She explained that she feels that the procedures are a little confusing, but has not yet read the CGS statutes regarding this matter. She questioned why it is necessary to physically be in the seat to have a vote rather than utilizing available technology as done on other boards or legislative bodies. Chairman Johnson explained that the Land Use Attorney looks at case law to take a conservative approach to some of these questions.

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Donna Hayes suggested that members take advantage of the CoG training courses. The group agreed to continue to think about these issues and consider bringing in Attorney Zizka for a review with the Commission.

**6.B.4.** Approval of the August 10, 2018, version of the Planning and Zoning Commission By-Laws.

*Mr. Winter moved to table the approval of the August 10, 2018, version of the Planning and Zoning Commission By-Laws. Mr. Manes seconded and the motion carried unanimously.*

**6.B.5.** Land Use Administrator's request to schedule a public hearing on February 13, 2020 to discuss a change to the Town of Kent Zoning Regulations by eliminating §3224.8 (a) and (b) regarding privately operated hospital, clinic, nursing home or convalescent home; and number changes to subsequent sections.

Donna Hayes reviewed her suggestions. She explained that the existing facilities would be pre-existing nonconforming. Ms. Hicks suggested reviewing each of these definitions as well.

*Mr. Manes moved to schedule a public hearing on February 13, 2020 to discuss a change to the Town of Kent Zoning Regulations by eliminating §3224.8 (a) and (b) regarding privately operated hospital, clinic, nursing home or convalescent home; and number changes to subsequent sections. Mr. Winter seconded and the motion carried unanimously.*

**6.B.6.** Resignation of John Johnson, Chairman, Planning & Zoning Commission to be effective immediately.

Chairman Johnson read a letter of resignation aloud. The Commission thanked John for his 30 years of service to the Commission, his fine leadership and professionalism.

*Mr. Winter moved to accept Resignation of John Johnson, Chairman, Planning & Zoning Commission to be effective immediately. Mr. Manes seconded and the motion carried unanimously*

**7. STAFF REPORT:**

Donna Hayes reported that the Kent Barnes was sent a request for Voluntary Compliance regarding the sign/advertising on the fencing. She spoke with owner and their attorney to no avail prior to sending this letter. She noted that she has received a complaint regarding this matter.

**8. REPORT OF OFFICERS AND COMMITTEES:** No action taken.

**9. OTHER COMMUNICATIONS AND CORRESPONDENCE:**

- 9.A.** Administrative Permits and Certificates of Compliance – November 12 to December 6, 2019. Received and reviewed.
- 9.B.** Financial Reports – July through November, 2019 – Received and reviewed.
- 9.C.** Connecticut Federation of Planning and Zoning Agencies, Fall 2019. - Distributed

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**10. ADJOURNMENT**

*Mr. Johnson moved to adjourn at 9:53 p.m. Mr. Winter seconded and the motion carried unanimously.*

Respectfully submitted,

*Tai Kern*

Tai Kern,  
Land Use Clerk