

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

RECEIVED FOR RECORD
KENT TOWN CLERK

2017 JUL -31 A 4:55

BY *[Signature]*
TOWN CLERK

JUNE 29, 2017 SPECIAL MEETING MINUTES

The Town of Kent Planning and Zoning Commission held a special meeting on Thursday, June 29, 2017 at 6:30 p.m. in the Kent Town Hall.

1. CALL TO ORDER

Mr. Johnson called the meeting to order at 6:34 p.m.

2. ROLL CALL AND APPOINTMENT OF ALTERNATES IF REQUIRED

Commissioners Present: John Johnson, Chairman; Darrell Cherniske, Alice Hicks, Anne McAndrew, Marc Weingarten, Matt Winter

Staff Present: Donna Hayes, Land Use Administrator

3. OLD BUSINESS:

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

3.B. DISCUSSION AND POSSIBLE DECISION

Mr. Winter recused himself from this discussion.

3.B.1. Executive Session. Completed Litigation: Mauri v Town of Kent, Docket No. LLI-CV-14-6009906-S in Litchfield Superior Court. Discussion of strategy and negotiations with legal counsel.

Mr. Cherniske moved to enter Executive Session. Completed Litigation: Mauri v Town of Kent, Docket No. LLI-CV-14-6009906-S in Litchfield Superior Court. Discussion of strategy and negotiations with legal counsel at 6:35 p.m. Mr. Weingarten seconded and the motion carried unanimously.

The Commission came out of Executive Session at 7:42 p.m. via a motion made by Mr. Weingarten and seconded by Mr. Cherniske.

Mr. Winter returned to the meeting for the next discussion.

3.B.2. Regulation Rewrite

TOWN OF KENT PLANNING AND ZONING COMMISSION
SPECIAL MEETING MINUTES FOR JUNE, 29, 2017

These are draft minutes. Corrections may be made by the Commission at the subsequent meeting. Please refer to subsequent meeting minutes for possible corrections and approval of these minutes.

Ms. Hayes asked the Commission members if they had read the sign regulation that she had sent them. Ms. Hayes said that she thought it was a good compromise to what Mr. Chalder had prepared. Mr. Weingarten said that there were a lot of inconsistencies and some of the signs, he thought, were awfully large. Ms. Hayes agreed but said that the layout was good and that it was somewhat easier to understand. She explained that Attorney Zizka had written it for the Town of North Stonington in response to the Supreme Court ruling of Reed v Gilbert.

Mr. Weingarten asked why permits were required for signs at all and asked if all sign permits come before the Commission. Ms. Hayes explained the process and Mr. Weingarten asked if the Alternative Signage program will be incorporated into this version of the regulation. Ms. Hayes said that it would.

Mr. Johnson asked that this be included on the next special rewrite meeting agenda and asked Ms. Hayes if she would do another Doodle Poll in order to set them up. Ms. Hayes said that she will work on the handout to make it more in line with what we currently have.

Ms. Hayes reminded the Commission that the next section to review was §9100.

With regard to 9110.1, Ms. Hayes reminded the Commission that this paragraph had to do with grandfathering in property sizes. She asked the Commission if they wanted to go ahead and change the soil based zoning requirements. Mr. Winter said that he remembered that the Commission wanted to make the change but Ms. Hayes reminded him that the decision was based solely on §9110.1 and if Attorney Zizka feels it should be removed, then the Commission will need to discuss their decision on soil based zoning again. Mr. Johnson asked if anyone remembered how many lots would be affected. Ms. Hayes said that she did not think it was many. Mr. Winter said that it not only affects just two acre lots, but it affects all lots no matter the size. Mr. Winter said that he was okay with taking out the section, but that the change must be made perfectly clear to the public.

Mr. Johnson said that §9110.1 should be removed and that the soil based zoning change will be made. Ms. Hayes explained that when Attorney Zizka reviews the regulations he considers whether or not the Town will prevail if a law suit should be instituted and since there was no legal precedence, it was his suggestion that it be removed. The Commission suggested that it remain in because they felt that it would not affect anyone either way.

Ms. Hayes told the Commission that Attorney Zizka did not feel that leaving a reference to §8-30g(a)(1) was not necessary, so Mr. Chalder changed it to reflect Kent Affordable Housing. It was decided that §9110.2 stay in as written.

With regard to §9120.5, Mr. Chalder dropped the height of fences from 6' to 4'. It was decided that it be changed back to 6'.

Ms. Hayes noted that old §9120.10 was now §9130.2 and that the wording could possibly cause a problem based on the MacKenzie lawsuit. Mr. Johnson said that he has the entire §9130 crossed out and deleted. Mr. Cherniske said that yes, there was a discussion about this. Ms. Hayes said that she thought the discussion was held when the Commission was reviewing Village Center – Residential and that currently if a resident can only put an accessory structure in the front of the house, it can be done via a special permit. It was decided that §9130.1 remain as is and that §9130.2 be allowed via special permit by inserting the following wording: "...dwelling) via a special permit."

With regard to §9120.13, Mr. Johnson felt that it can stay in as it allows the Commission to be more flexible.

With regard to 9130.2.a. and 9130.2.b., Ms. Hayes explained that those section numbers referred to the previous draft and that they were combined by Mr. Chalder to create §9130.1. and 2.

TOWN OF KENT PLANNING AND ZONING COMMISSION
SPECIAL MEETING MINUTES FOR JUNE, 29, 2017

These are draft minutes. Corrections may be made by the Commission at the subsequent meeting.
Please refer to subsequent meeting minutes for possible corrections and approval of these minutes.

Ms. Hayes said that she felt that “unless authorized by the Commission through granting of a Special Permit” in §9140.2.a. be removed and told the Commission that a variance was applied for for the cupola on top of the new theater. Mr. Winter also asked that the word “be” in front of the word “exceed” be removed from §9140.2.

With regard to §9150, Ms. Hayes said that the word “Possible” needs to be removed from the header.

Section 9220.1 will remain as is.

Attorney Zizka noted that the word “potentially” be removed from §9230.1. With regard to §9230.2., Attorney Zizka recommended and the Commission agreed that the following language be removed: “unless a Special Permit has been granted by the Commission in accordance with Section 10400 of these Regulations”. With regard to §9230.4., Mr. Weingarten said that the regulation states that the decision rested with the Commission. Ms. Hayes read the existing regulation and it was noted that Mr. Chalder took that existing section and broke it into subsections in the new regulations. It was decided that “by granting of a Special Permit by the Commission in accordance with Section 10400 of these Regulations” be removed making the first section of §9230.4 read as follows: “A non-conforming use may, following a public hearing, be changed to another non-conforming use provided that: ...”.

With regard to §9240.1, the word “potentially” will be deleted.

In §9240.3., the words “unless a Special Permit has been granted by the Commission in accordance with §10400 of these Regulations”. In addition, §9240.3.c., should be deleted in its entirety.

With regard to §9250, Attorney Zizka feels that the entire section can be deleted. Mr. Weingarten asked what situation this would apply to and no one on the Commission could come up with a situation. It was decided to remove the entire section because a situation like this can be handled under their separate sections.

Mr. Johnson said that he felt §9260 was not necessary. Mr. Weingarten addressed Attorney Zizka’s comment of “anything” next to the words “permanent position”, Mr. Johnson said that a zoning permit lasts two years but Ms. Hayes said that if the work does not start and the regulations change, the approval can change. Mr. Winter said that he thought that this protects the applicant but Mr. Weingarten and Mr. Johnson disagreed. It was decided to change the first part of the section to read: “To avoid undue hardship nothing in these Regulations shall be deemed to require a change in the plans, construction, or designated use of any building for which a zoning permit has been issued prior to the effective date of adoption or amendment of these Regulations...”.

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

Ms. McAndrew asked the Commission what their mission is; to protect the welfare of the Town or protect the welfare of the specific person. Mr. Johnson said that it is a question of fairness. He continued that once the permit is approved, it is good for two years. Ms. Hicks added that the permit is designed to comply with the health and safety of the community. Ms. McAndrew asked what would happen if the regulations changed in the meantime and Ms. Hayes replied that the regulations would be protecting the applicant at the point in time. Mr. Winter agreed.

Mr. Cherniske asked who would define “provided that work shall be carried on diligently”. Ms. Hayes asked the Commission if they wanted to end §9260 at the word “Regulation”. Doing that would mean that applicants would be protected if they have a zoning permit only. Mr. Johnson said yes and Mr. Winter agreed. Therefore, §9260 would read: “To avoid undue hardship nothing in these Regulations shall be deemed to require a change in the plans, construction, or designated use of any building for which a zoning permit has been issued prior to the effective date of adoption or amendment of these Regulations.” Ms. Hicks asked if there has been a situation

TOWN OF KENT PLANNING AND ZONING COMMISSION
SPECIAL MEETING MINUTES FOR JUNE, 29, 2017

These are draft minutes. Corrections may be made by the Commission at the subsequent meeting.
Please refer to subsequent meeting minutes for possible corrections and approval of these minutes.

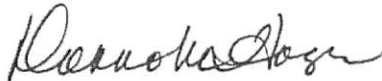
where a regulation change was done because another zoning permit would never be issued for a similar action. Mr. Johnson said that he does not think so.

With regard to §'s 9300.5., 6., 7. and 10, Mr. Cherniske said that he feels these are specific to Kent. Mr. Winter asked if fair/amusements are only allowed by non-profit organization. Ms. Hayes asked if the Commission wanted to remove the header from each section and Ms. Hicks said that "non-profit related" does not apply to §9300.6. or §9300.7. Ms. Hayes commented that she does not regulate any of §9300 and asked the Commission if they wanted to regulate §9300.5., 6., 7. and 8. Mr. Cherniske said if they are removed from the section, then it could appear that they are not allowed. Ms. Hayes suggested that the word "approval" is substituted with "notification is made to ...". Mr. Winter suggested ending the sentence after the word year. Ms. Hayes reminded the Commission that the Jazz Festival came before the Commission with information on traffic control, police, etc. Mr. Johnson suggested removing all of the non-profit related events. Ms. Hicks said that the sections could be taken out and included under §9300.10. Ms. Hayes told the Commission that currently non-profit organizations need a special permit; but it is not applied. Mr. Winter said that he feels all the headers need to be removed. Mr. Johnson said that he was okay with leaving it in and that Commission approval would be okay. Mr. Winter said that §9300.10.b is very permissive and feels that it would allow uses not previously approved by the Commission. Mr. Johnson said that he would agree to the removal of §9300.10.b. With regard to §9300.10.a., Mr. Johnson said that this would those special events like the library gala. Ms. Hayes agreed but cautioned that this would have to be strongly communicated. Mr. Winter asked if the Commission wanted to follow the same type of structure as "farm stand", "farm market" and "farm stand". Ms. Hayes asked how the split would be handled. Mr. Winter said that he was okay with removing §9300.10.b. Mr. Johnson asked that §9300.10.a. be changed from "The Zoning Enforcement Officer" to "The Commission". In addition, the sentence will end at "year".

5. ADJOURNMENT

Ms. Hicks moved to adjourn at 8:38 p.m. Ms. McAndrew seconded and the motion carried unanimously.

Respectfully submitted,



Donna M. Hayes, CZEO
Land Use Administrator

RECEIVED FOR RECORD
KENT TOWN CLERK

2017 JUL - 4 A 4: 55

BY  TOWN CLERK

TOWN OF KENT PLANNING AND ZONING COMMISSION
SPECIAL MEETING MINUTES FOR JUNE, 29, 2017

These are draft minutes. Corrections may be made by the Commission at the subsequent meeting. Please refer to subsequent meeting minutes for possible corrections and approval of these minutes.