

**TOWN OF KENT
PLANNING AND ZONING COMMISSION**

41 Kent Green Boulevard

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JULY 14, 2016 REGULAR MEETING MINUTES

The Town of Kent Planning and Zoning Commission held a regular meeting on Thursday, July 14, 2016 at 7:00 p.m. in the Kent Town Hall.

1. CALL TO ORDER

Mr. Johnson called the meeting to order at 7:05 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, Marc Weingarten, Wes Wyrick

Staff Present: Donna Hayes, Land Use Administrator

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

Mr. Manes moved to add agenda items 6.B.4. Application #54-16C, Adam Osborne for Nancy Wilsea, 211 Kent Hollow Road, selective timber harvest in Horizonline Conservation District, Map 16 Block 27 Lot 1; 6.B.5. Northwest Hills COG Wayfinding Signage for Town of Kent; and 6.B.6., Kent Affordable Housing, Inc., 19 Maple Street Extension, lot configuration, Map 4 Block 42 Lot 5 to the agenda. Mr. Cherniske seconded and the motion carried unanimously.

3. READING AND APPROVAL OF MINUTES:

3.A. Regular Meeting Minutes of June 9, 2016.

Mr. Johnson said that he did not see a vote to amend the motion made on page 5. In addition, the motion to approve applications 32-16C and 33-16SP, Mr. Johnson said that the information to be provided on the interior lighting should be submitted for approval by either the Commission or the Land Use Administrator.

Mr. Manes moved to approve the Regular Meeting Minutes of June 9, 2016, as amended. Mr. Cherniske seconded and the motion carried unanimously.

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3.B. Special Meeting Minutes of June 30, 2016.

Mr. Manes moved to approve the Special Meeting Minutes of June 30, 2016, as submitted. Mr. Weingarten seconded and the motion carried unanimously.

4. PUBLIC COMMUNICATIONS (ORAL):

No action taken.

Mr. Manes moved to hear agenda item 6.B.3. at this point in the meeting. Mr. Wyrick seconded and the motion carried unanimously.

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. Rewrite of Zoning Regulations

Ms. Hayes advised the Commission that information had been exchanged between Atty. Zizka and Mr. Chalder and that she was waiting for Mr. Chalder to contact her with a proposed meeting date.

No action taken.

6. NEW BUSINESS:

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

Mr. Cherniske and Mr. Manes recused themselves from this discussion.

6.A.1. Application #45-16SP and #46-16C, South Kent School Corporation, 0 Bulls Bridge Road, athletic field lighting, Map 6 Block 38 Lot 2.

Mr. Johnson opened the public hearing at 7:15 p.m. and read the legal notice into the record.

Ms. Hayes referred the Commission to the calendar she had prepared which shows in red the nights that the lights will be on. Mr. Johnson asked that the applicant verify the dates that are listed. Ms. Hayes also said that she had prepared a draft Resolution of Approval.

Mr. David Bjorklund was present and reminded the Commission that they had approved the actual turf installation at the last meeting and that due to an advertising glitch, a new special hearing was required for the lighting itself. Mr. Bjorklund then gave proof of notification to the adjoining Town of New Milford. He then turned the presentation over to Mike Mahoney from Musco Lighting.

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Mr. Mahoney told the Commission that Musco Lighting has been involved in sports lighting since 1976 and has won an Academy Award and an Emmy Award for lighting. They also provided replacement lighting at the Statue of Liberty.

Mr. Mahoney explained that the lighting for this field will be four 80' poles containing 13, 1500 watt fixtures. He then explained how they determined the height of the lights along with the aiming angle. The lights will be installed at a 25° angle and will have an external visor on top of the lights to push the light down. Mr. Johnson asked how many foot candles will be on the field of play. Mr. Mahoney said that on average it would be 50 foot candles.

With regard to the physical control of the lights, Mr. Mahoney said that there would be wireless control to allow scheduling via an application on Musco Lighting's website. The application would not allow the lights to be turned on before the designated time. He advised the Commission that the turn off would be instantaneous. The lights are scheduled to turn on 30 minutes before sunset with the longest on time of 2.5 hours. The total hours of illumination for the 2016-2017 school year would be 75 hours. Mr. Mahoney said that he remembered the concern the Commission expressed regarding the height of the poles. As a result, he compared the mounting height with the surrounding trees which range in height from 105' to 120'. Based on the surrounding tree heights, you would not see the light poles silhouetted against the sky. Ms. Casey asked how it would look when there are no leaves on the trees and Mr. Mahoney said that it would be the same. He continued that the poles would be galvanized, dull gray with nothing shiny. Ms. Hayes asked what you would see from above. Mr. Mahoney said that all they would see would be green grass. The actual lights will not be seen due to the external visor.

Mr. Mahoney also advised the Commission that within 50 miles south of the South Kent School, the following towns have Musco lighting: New Milford, Brookfield, New Fairfield, Danbury, Newtown, Ridgefield, Wilton, New Canaan and Westport. Mr. Weingarten asked if the height was the same 80' and Mr. Mahoney replied that it was. Mr. Johnson asked if 50 foot candles was standard and Mr. Mahoney said that it was. Mr. Johnson continued that he had looked at Musco.com and the YouTube sites and saw that the lights were very bright but that the very bright light was contained to the field and that the people who live higher than the lights would see a bright object on the ground.

Mr. Weingarten asked if the list of neighbors was attached to the application by the applicant. Ms. Hayes said that it was. He then asked if those neighbors received a personal notification about this application. Ms. Hayes said that they had not and that it is not a requirement by the Commission at this time. It is something that the Commission is looking at changing in the new regulations.

First Selectman Adams asked if the hours that were submitted are the only time the lights will be on even if other organizations want to use the field. Mr. Bruce Carlson replied that it was. Mr. Wyrick replied that if the South Kent School wants to change the lighting hours, they would have to come in for a modification to the special permit. Mr. Johnson said that a new schedule will have to be submitted on a yearly basis. Mr. Weingarten suggested that the Resolution of Approval be adjusted to read that a new schedule be submitted for approval by the Commission on a yearly basis. Mr. Johnson asked the applicant if they had an opportunity to verify the dates that Ms. Hayes used to create her calendar. Mr. Bruce Carlson agreed that the dates were correct and agreed to its use.

Mr. Carlson commented that during the winter months, if there is snow on the ground, the field and the lights would not be used because the school is not equipped to remove the snow from the field.

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Before moving on, Mr. Johnson asked the Commission for any additional comments. Ms. McAndrew said that she felt it was a great to have the lights and for people to play but feels bad that the neighbors weren't notified.

Mr. Wyrick moved to close the public hearing at 7:39 p.m. Ms. McAndrew seconded and the motion carried unanimously.

During discussion, Mr. Wyrick said that he did not think it was necessary to delay the decision because the amount of hours the lights will be lit was greatly reduced from the original submission and they would not be lit late into the night. Mr. Weingarten agreed and commented that the school was spending a considerable amount of money to have them installed for the amount of time they were being used.

Mr. Weingarten moved that the Kent Planning and Zoning Commission approve the applicant's Application #45-16SP and #46-16C, South Kent School Corporation, 0 Bulls Bridge Road, athletic field lighting, Map 6 Block 38 Lot 2.

This resolution is approved subject to the following conditions:

- 1. The Commission considers the factual representations made by the applicant and its agents, representatives and consultants with regard to the nature, scope, location, extent, timing, frequency and all other aspects of the proposed use to have been critical in the Commission's determination that the Special Permit could properly be approved. Therefore, the applicant shall be bound by all such factual representations as though expressly made conditions of this approval, except as modified by this resolution. The applicant's factual representations include, but are not limited to, those made in the following documents:
 - A. Special Permit application dated June 15, 2016.*
 - B. Site Plan application, with attachments, dated June 15, 2016.*
 - C. South Kent School Multi-Use Athletic Field, Lighting Layout and Details dated April 22, 2016, prepared by Clark Companies, Catella Engineering, LLC, #C7 and C8.*
 - D. South Kent School 2016 – 2017 Turf Field Lighting Schedule received June 9, 2016.*
 - E. 2016/17 So Kent School Light Schedule prepared by the Land Use Office.**
- 2. That a lighting schedule be submitted to the Land Use Office for approval by the Planning & Zoning Commission prior to the commencement of that subsequent year's schedule.*
 - 3. That each condition attached to this special permit approval is an integral part of the approval and inseparable from it. Should any of the conditions attached hereto be found by a court of competent jurisdiction on appeal to be void, then, in that event, the special permit granted herein is void and of no legal effect.*
 - 4. The violation of any of the conditions of this special permit approval may be grounds for revocation of the special permit pursuant to section 4.15.8 of the Zoning Regulations.*

In granting the above special permit application, the Commission states on its record that, in the Commission's judgment, the proposed project will conform to the requirements of the Rural District and that it satisfies the factors the Commission must consider in reviewing such amendments, as set forth in the Plan of Conservation and Development and the Zoning Regulations of the Town of Kent.

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Adopted by the Kent Planning and Zoning Commission this 1st day of August, 2016.

Mr. Wyrick seconded and the motion carried unanimously.

With the arrival of Ms. Hicks during this discussion, Mr. Johnson returned Ms. McAndrew to alternate status.

Mr. Cherniske and Mr. Manes returned to the meeting.

6.B. DISCUSSION AND POSSIBLE DECISION

6.B.1. General Statutes Section 8-24 Referral: Planning & Zoning approval for the improvement of the lot known as 0 Railroad Street, Town of Kent, Map 19 Block 42 Lot 14.

First Selectman Adams was present to address the Commission. Ms. Hayes explained that when the original referral was given to purchase 0 Railroad Street it did not include approval for the improvement of the lot. Now that they Town is finalizing the details on the design of the Visitor Center, the Town Attorney has requested that the approval for the improvement be given.

First Selectman Adams then showed the Commission the proposed design of the Visitor Center and the parking associated with it. Mr. Manes asked if the bathrooms will be open 24 hours and First Selectman Adams replied that it would not and that a magnetic locking system will be installed. The plan is to keep it open during the first winter to determine what the cost would be to keep them heated. The color will be determined and the roof will be covered with the same enviro shakes that were used to roof Bulls Bridge and Seven Hearths. There was no timeframe available for the construction.

Mr. Manes moved to approve the improvement of the lot known as 0 Railroad Street, Town of Kent, Map 19 Block 42 Lot 14. Mr. Weingarten seconded and the motion carried unanimously.

Mr. Manes moved to hear agenda item 6.B.5. at this time in the meeting. Mr. Weingarten seconded and the motion carried unanimously.

6.B.2. Lot Line Adjustment between Carol Lenz, Trustee, 31 Ore Hill Road, Map 11 Block 34 Lot 13 and Robert Lenz, Trustee, 33 Ore Hill Road, Map 11 Block 34 Lot 14.

Ms. Hayes explained that the existing lot line ran through the existing pond and that the property owner wanted to make a more distinct delineation. She told the Commission that Torrington Area Health had approved the lot line revision.

Mr. Manes moved to approve the Lot Line Adjustment between Carol Lenz, Trustee, 31 Ore Hill Road, Map 11 Block 34 Lot 13 and Robert Lenz, Trustee, 33 Ore Hill Road, Map 11 Block 34 Lot 14. Mr. Wyrick seconded and the motion carried unanimously.

The Commission then heard agenda item 6.B.4.

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6.B.3. Application #50-16C, Jayne Ridgway for Mary C. Williams, 0 South Main Street, temporary location of Farmer's Market during Morrison Gallery construction, Map 19 Block 12 Lot 6.

Both Ms. Ridgway and Ms. Williams were present to address the Commission. Ms. Hayes explained that because of the upcoming construction at the existing farmer's market location, Ms. Williams has given permission for them to move to her lot on South Main Street and to share the space with the hot dog truck and fish truck. She continued that she had reviewed the drawing submitted by the applicant and as long as they operate as indicated, she did not foresee any issues. Ms. Williams commented that Ms. Weber, Town Sanitarian, had asked that Ms. Williams add some sort of material to keep the dust down which will be done.

Ms. Hayes advised those present that this will be a temporary location. Ms. Ridgway asked if there was a specific timeframe for the operation and Ms. Hayes said that the authorization letter from Ms. Williams says, "Hours of the Farmers' Market would be Fridays from 3 p.m. to 6 p.m., and Saturdays from 10 a.m. to 12 p.m. We anticipate that the Farmers' Market would open at the South Main Street site at the end of July, and close toward the end of October."

Mr. Manes moved to approve Application #50-16C, Jayne Ridgway for Mary C. Williams, 0 South Main Street, temporary location of Farmer's Market during Morrison Gallery construction, Map 19 Block 12 Lot 6. Ms. Casey seconded and the motion carried unanimously.

The Commission then heard agenda item 5.B.1.

6.B.4. Application #54-16C, Adam Osborne for Nancy Wilsea, 211 Kent Hollow Road, selective timber harvest in Horizonline Conservation District, Map 16 Block 27 Lot 1.

Ms. Hicks recused herself from this discussion. Mr. Johnson elevated Ms. McAndrew to voting status.

Mr. Osborne was present to address the Commission. He explained that he had been hired to do a selective timber harvest on the property; part of which is located in the Horizonline Conservation District. Ms. Hayes referred the Commission to the maps she had included with the application and advised them that she had walked the site with the Inland Wetlands Commission on Monday, July 11th. She also explained that the elevation from Kent Hollow Road to the top is ~600' to ~900'. Ms. Hayes said that you would not be able to see what trees have been removed from Kent Hollow Road due to the height of the trees on the front of the wooded area. Mr. Osborne agreed and said that those trees would not be harvested due to their quality.

Mr. Cherniske asked where the landing would be located. Mr. Osborne said that it would be located in the field closer to the little red house on the north side of the property. Mr. Wyrick asked how many trees would be removed. Mr. Osborne said that approximately 150 trees would be removed over 100+ acres with the wooded acres being about 60 acres. Mr. Wyrick commented that the Horizonline Conservation District was put in place for structures. Mr. Wyrick asked if the limbs would be chipped. Mr. Osborne said they would be cut and left; there would be no chipping. Some 4" to 5" limbs would be taken. Mr. Wyrick asked how many skid roads would be created. Mr. Osborne said that there would be one main road and there are two smaller, pre-existing roads on the property. Mr. Wyrick asked if Wetlands has approved the operation. Ms. Hayes said that the Commission had received the application and had walked the property. The decision would be made at the July 25th meeting.

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Ms. McAndrew moved to approve Application #54-16C, Adam Osborne for Nancy Wilsea, 211 Kent Hollow Road, selective timber harvest in Horizonline Conservation District, Map 16 Block 27 Lot 1 contingent on Inland Wetlands approval. Mr. Wyrick seconded.

Mr. Weingarten asked if the approval should state the number of trees to be removed. Ms. Hayes explained that all that information is provided in the Inland Wetlands application. Mr. Johnson asked Ms. McAndrew if she would like to include that information in her motion. Ms. McAndrew said that she would. The motion was amended to reflect that approximately 150 trees would be removed.

Mr. Wyrick seconded the amended motion and the motion carried unanimously.

Ms. Hicks returned to the meeting.

6.B.5. Northwest Hills COG Wayfinding Signage for Town of Kent.

First Selectman Adams explained the wayfinding signage program and showed the Commission a proposed drawing of their designs and their proposed locations. The six proposed locations are: the two gateways along Route 7 (north and south); the two gateways on Route 341 (east and west); the other two are in Town (in the Webster Bank parking lot) and the other across the street. Each sign post will have signs based on their locations. Mr. Tim Good, a representative from the Chamber, will be preparing a specific presentation of each sign design. The signs will look like the others that have been placed in Cornwall and Falls Village.

First Selectman Adams said that the next issue will be the location. He is hoping that the signs will be placed on the Connecticut DOT right of way; if not they will have to be placed on private property. Mr. Weingarten asked if the Town was exempt from the Zoning Regulations. Ms. Hayes replied that they are as long as they are doing work on Town property. Since these signs might be placed on private property, the Commission will have to make a decision as to whether or not they will require that a sign permit application be submitted by the property owners. Ms. Hayes referred the Commission to §19.3.4. which says: "These Regulations shall not prohibit or regulate the installation by or under the direction of the Town, State or Federal government of street signs, emergency signs, traffic control signs, warning signs or directional signs." Her main reason for this discussion was to enable a dialog on how to handle the signs should they have to be placed on private property and in light of the recent Supreme Court decisions regarding signage. First Selectman Adams said that they were hoping that all the signs would be placed on CT DOT property. Mr. Manes asked, if the signs were being placed on private property, could the Town reimburse the property owners for the application fee. First Selectman Adams replied that he was not sure if the grant could or not. Mr. Johnson read the regulation again and commented that he did not think a permit would be required. Ms. Hayes said that her interpretation of §19.3.4. is that no permits would be required but cautioned that the regulations could change based on the most recent legal rulings. Mr. Cherniske agreed but commented that the regulations might end up being less restrictive. Mr. Johnson asked if any of the Commissioners had a different interpretation of the Regulation. Having none, Mr. Johnson said that he would keep this in mind when the new regulations were submitted.

No action taken.

Mr. Wyrick moved to hear agenda item 6.B.2. at this point in the meeting. Ms. Casey seconded and the motion carried unanimously.

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6.B.6. Kent Affordable Housing, Inc., 19 Maple Street Extension, lot configuration, Map 4 Block 42 Lot 5.

Mr. Dan Schiessel was present to speak with the Commission. He explained that he asked to be put on the agenda to get an idea about how the Commission could treat the affordable housing lot on Maple Street Extension now that they property is hooked up to Town sewer and water. Specifically, would it be possible to take the 1-acre lot and split it in half creating two ½ acre lots, each with one house on it. He presented a map to the Commission for reference. The question was raised how that area will be treated in the new regulations. The new Affordable Housing section says that the lot must comply with the underlying district except that the Commission may vary the lot size, coverage and setback requirements. Mr. Schiessel said that he talked with the Sewer Commission and they told him that they could handle up to 10 units.

Mr. Manes said that at least ½ of the lot is not buildable due to the topography. Mr. Schiessel said that the location would be more in line with an in Town location. He understands that an engineer would have to get involved, but wanted to start the dialog with the Commission.

There was discussion about building a two family house set up as a condominium, but thought that would be problematic.

Ms. Hayes said that the new regulations will have to be addressed especially since there is talk about changing the requirements for the soil classifications. She also stated that a lot line revision would have to be done and asked if KAH was still proposing they maintain ownership of the land with the resident owning the house. Mr. Schiessel said that it could be handled that way but that it was not necessary. Mr. Manes said that it could be deed restricted.

Mr. Manes said that the big question was whether or not the Commission was okay with allowing a house to be built on ½ lot. Mr. Schiessel said that the buildability of the lot is really ¼ acre which is in keeping with the Village Residential district. Mr. Schiessel said that phase 2 of Stewart Farms will be done first but wanted to start the dialog. Mr. Manes agreed with Ms. Hayes with regard to creating a new zone in that area. Mr. Schiessel said that the new regulations would allow it via a special permit, but Ms. Hayes cautioned the Commissioners about the recent McKenzie case where a Planning & Zoning Commission was found to be in violation because they were making changes to the regulations which fell under the purview of the ZBA. This was something that will be looked at during the legal review.

7. STAFF REPORT:

Mr. Manes move to hear agenda item 7.A. at the end of the meeting. Mr. Cherniske 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.**

At 8:40 p.m., Mr. Manes moved to go into 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

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Litchfield Superior Court. Discussion of strategy and negotiations with legal counsel. Mr. Cherniske seconded and the motion carried unanimously.

The Commission came out of Executive Session at 8:51 p.m.

8. REPORT OF OFFICERS AND COMMITTEES:

8.A. Presentation of Incentive Housing Zone Subcommittee

Mr. Manes moved to continue Presentation of Incentive Housing Zone Subcommittee to the next regular meeting. Mr. Weingarten seconded and the motion carried unanimously.

9. OTHER COMMUNICATIONS AND CORRESPONDENCE:

9.A. Draft Recommendations for Regional Transportation Plan

No action taken.

9.B. Administrative Permits and Certificates of Compliance

No action taken.

9.C. *The Capitol Update – June 2016*

No action taken.

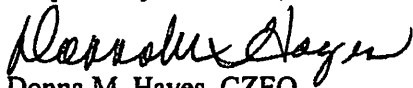
9.D. 2015 Annual Monitoring Report, Natural Resources Management Plan, Bull's Bridge Golf Club.

No action taken.

10. ADJOURNMENT

Mr. Wyrick moved to adjourn at 8:51 p.m. Ms. Casey seconded and the motion carried unanimously.

Respectfully submitted,


Donna M. Hayes, CZEO
Land Use Administrator

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