

TOWN OF KENT
PLANNING AND ZONING COMMISSION
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RECEIVED FOR RECORD
KENT TOWN CLERK
2020 FEB 18 A 9 54
BY *D. Hayes*
TOWN CLERK

FEBRUARY 13, 2020 REGULAR MEETING MINUTES

The Town of Kent Planning and Zoning Commission held a regular meeting on Thursday, February 13, 2020 at 7:00 p.m. in the Kent Town Hall.

1. CALL TO ORDER

Chairman Winter called the meeting to order at 7:03 p.m.

2. ROLL CALL AND APPOINTMENT OF ALTERNATES IF REQUIRED

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

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

Donna Hayes made two housekeeping corrections to the agenda; under 6.B.2, "#145-20SP" was corrected to "#145-02SEP" and the second agenda item "6.B.2." was corrected to "6.B.3".

Mr. Manes moved to accept the two corrections to the agenda. Mr. Wyrick seconded and the motion carried unanimously.

3. READING AND APPROVAL OF MINUTES:

3.A. Special Meeting Minutes of January 9, 2020.

Mr. Manes moved to approve the Special Meeting Minutes of January 9, 2020. Mr. Wyrick 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.B. DISCUSSION AND POSSIBLE DECISION

6. NEW BUSINESS:

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

TOWN OF KENT PLANNING AND ZONING COMMISSION
REGULAR MEETING MINUTES FOR FEBRUARY 13, 2020

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.

6.A.1. Removal of Section 3224.8 (a) and (b) regarding privately operated hospital, clinic, nursing home or convalescent home; number changes to subsequent sections; and possible rewrite of the definition of “Convalescent Home” of the Town of Kent Zoning Regulations.

Chairman Winter read the legal notice of this hearing into the record. Three letters from the public in favor of this proposal were read for the record as well. (Attached)

Chairman Winter discussed the history of this regulation and the proposed change. He explained that there has been enough opposition to this use lately to call for this Commission to revisit this regulation. The proposal is to remove the convalescent use from Rural Zone and change the term to “Residential Care Facility” in the Village Commercial and R-1 and R-2 Districts.

Donna Hayes explained that removing the rural use would make three of the four existing facilities that fall under the Convalescent Home definition legally nonconforming facilities; thereby, requiring them to go to the ZBA with a hardship to make any changes to their facilities.

Chairman Winter looked for comment from the public:

Ellen Altfest came forward and noted that a nearby town is having issues with boarding houses becoming sober homes due to the facilities in their town. She explained that they had to hire a lawyer due to a recent application, which is really expensive. Any restrictions on these epic expansions would benefit the town.

Rob Colvin came forward and noted that, at a minimum, there should be more clarity regarding these applications. This proposal would give the regulations more teeth for discussion.

Matt Winter explained that the Commission understands the definition of convalescent home. The problem is that it may not be the proper definition.

Karen Casey noted that given all they have heard over the past couple years and for all the reasons mentioned she is in favor of this proposal.

Alice Hicks explained that she does not disagree, but listed the confusion regarding all the terminology used for such facilities. She noted that none of them are like a convalescent home. Ms. Hicks stated that this business is so complicated in today’s world.

Donna Hayes explained that the proposal is to remove the term Convalescent Home in its entirety and replace with Residential Care Facility.

Chairman Winter clarified that the two questions before the Commission are whether the Commission believes that Convalescent Home is reasonable use for the rural zone and does the Commission want to clean up the definition of Convalescent Home or change it to Residential Care Home.

David Birnbaum questioned whether there were any other facilities in the Rural Zone not related to addiction. It was advised there is not. He questioned whether a hospice could open in the rural zone. It was advised that they could not under this proposal; however, a petition to change the regulations can be submitted at any time.

Mr. Manes moved to close the public hearing regarding removal of Section 3224.8 (a) and (b) regarding privately operated hospital, clinic, nursing home or convalescent home; number changes to subsequent sections; and possible rewrite of the definition of “Convalescent Home” of the Town of Kent Zoning Regulations. Ms. Hicks seconded

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Discussion: Ms. Hicks questioned whether the Commission should be reaching out to an expert on this subject. Mr. Winter and Mr. Wyrick thought this would be a good idea. Mr. Cherniske stated that the safer course would be to accept the proposed changes and deliberately add back what is needed. This will allow time to evaluate the emergency services as it will be difficult the reign in the precedence previously set. The motion carried unanimously at 8:51 p.m.

The Commission was in agreement that the Convalescent Home use is not appropriate in the rural zone. The group discussed the idea of changing the term “Convalescent Home” to “Residential Care Home” where noted in the regulations. It was suggested that the two motions be made separately.

Mr. Wyrick moved to accept the following resolution:

RESOLVED: That the Kent Planning and Zoning Commission remove §3224.8, a privately operated hospital, clinic, nursing home or convalescent home provided that: a. The property contains at least five acres, and b. At least 4,000 square feet of lot area shall be provided for each bed providing in-patient accommodation.

RESOLVED: That the Kent Planning and Zoning Commission renumber:

3224.9 to 3224.8

3224.10 to 3224.9

3224.11 to 3224.10

3224.12 to 3224.11

3224.13 to 3224.12

3224.14 to 3224.13

3224.15 to 3224.14

In adopting the above, the Commission states on its record that, in the Commission’s judgment, the proposed amendment 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. Mr. Manes seconded.

Discussion: Mr. Winter noted concerns with limiting commerce and the fact that what is pre-existing would be nonconforming facilities. The motion carried unanimously.

Ms. Hicks moved to approve removal of the definition for “Convalescent Home” in the Town of Kent Zoning Regulations. Ms. Casey seconded.

Discussion: Mr. Manes feels there needs to be a broader conversation. Mr. Cherniske noted that he does not want to add temporary definitions to the regulations.

The motion failed 2-4. Winter, Manes, Cherniske, and Wyrick opposed.

It was requested that this discussion be placed on the agenda for next month.

6.B. DISCUSSION AND POSSIBLE DECISION

- 6.B.1.** Application #04-20C, Cornwall BB, LLC, 31 North Main Street, Map 19 Block 14 Lot 1, conversion of first floor stockroom w/sink to owner’s bedroom and bathroom without a kitchen.

Donna Hayes reviewed her staff report on the history of this property. She noted that this had been approved as a change of use in May 2008 with a limit of two bedrooms; however, there was no discussion why the limit was for only two bedrooms. The group discussed the current parking accommodations and whether the street parking

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should be considered. The Commission discussed whether this should be considered a separate dwelling unit. Donna Hayes explained that a separate dwelling unit requires a kitchen. She has been calling this proposal an "owners' suite".

Stacy Martin and Mark Hampstead, owners, came forward and explained that their business is the Cornwall Inn and it is where they live. This suite is where they would like to get away to. They would add a bathroom and bedroom to be able to stay the night. The Commission suggested that this be considered an office. Donna Hayes disagreed and noted that this should be documented as a bedroom if that is for what it will be used. The owners stated that it is not their intent to rent this out; however, they would like leave open the option to rent the unit out should they have overflow guests.

The Commission determined that this would be a mixed use with retail use with two dwelling units. One unit on the first floor and one on the second floor. It was noted that the use on their application does not exist; therefore, their application should be modified.

The application was amended by the owners to propose conversion of first floor stockroom w/sink to one-bedroom residential dwelling unit.

Mr. Manes moved to approve application #04-20C, Cornwall BB, LLC, 31 North Main Street, Map 19 Block 14 Lot 1, conversion of first floor stockroom w/sink to one-bedroom residential dwelling unit. The Commission understands that three of the ten required parking spaces will be on the street. Mr. Wyrick seconded and the motion carried 3-2-1. Cherniske and Hicks opposed. Casey abstained.

- 6.B.2.** Modification to Application #145-02SEP, Kent School Corporation, 25 Skiff Mountain Road, Map 3 Block 9 Lot 24, construction of 14 new faculty houses, 6 separate garages and renovate 5 existing dwellings to comprise a total of 20 dwelling units (one as a two family). **Modification to be the reduction to the number of homes proposed; and elimination of detached garages.**

Joe Wolinski came forward. Donna Hayes reminded the Commission that they approved in 2002 the new faculty housing, which was never completed. They would like to modify the permit to reduce number of houses from 8 to 6 new dwelling units without garages. They have the approval of the sewer commission. This request has been before IWC and is expected to be approved at their next meeting. FEMA shows that this area is not within the floodplain.

The group reviewed the plans and it was noted that Anchor Engineering has reviewed and approved the plan. The original conditions of the approval were reviewed.

Mr. Manes moved to accept the following resolution:

WHEREAS, Modification to Application #145-02SEP, Kent School Corporation, 25 Skiff Mountain Road, Map 3 Block 9 Lot 24, construction of 14 new faculty houses, 6 separate garages and renovate 5 existing dwellings to comprise a total of 20 dwelling units (one as a two family): modification to be the reduction to the number of homes proposed; and elimination of detached garages was presented to the Planning and Zoning Commission on February 13, 2020.

THEREFORE, BE IT RESOLVED that after discussion and upon a motion made by Mr. Manes and seconded by Mr. Wyrick, the Commission approves said modification with the following conditions:

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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, this approval incorporates by reference all such factual representations as though expressly made conditions of this approval, except as may be modified by subsequent conditions of this resolution. The applicant's factual representations include, but are not limited to, those made at the meeting.*
2. *That the Conditions of Approval originally granted in accordance with Application #145-02SP and filed on the Town of Kent Land Records in Volume 136 page 647, remain in effect with the exception of condition #2.*
3. *Condition #2 shall be amended to read: Units indicated on Site Plan Prepared for Kent School Corporation, Sheet S-1, dated January 8, 2020 and revised to February 6, 2020, which have yards visible from Skiff Mountain Road shall not have accessory buildings closer to the road than the dwellings, or store equipment unenclosed, in those yards (e.g., swings, barbecues, playsets).*
4. *Any changes to information represented during this application process shall require a modification of this Special Permit. The Commission does not, by this condition, guarantee that it will approve any such modification.*
5. *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 shall be void and of no legal effect.*
6. *The violation of any of the conditions of this special permit approval may be grounds for revocation of the special permit pursuant to Section 10470.3 of the Zoning Regulations.*

Mr. Wyrick seconded and the motion carried unanimously.

6.B.3. Discussion with and possible recommendation of David Birnbaum to fill alternate position vacated by Adam Manes.

David Birnbaum came forward to discuss the open alternate position on the Commission. It was explained that this term would be until November 2021. The group agreed that they would recommend Mr. Birnbaum to be appointed by the Board of Selectmen and thanked him for coming forward to volunteer.

7. STAFF REPORT:

- 7.A. Request under the FOIA to "inspect and copy all documents" with respect to Applications 44-19SP and 64-19C, Dolores R. Schiesel, Esq. for Roberti Family, LLC, 175 Carter Road.

Donna Hayes reported on this FOI request and noted that the request was responded to on behalf of this Commission. The First Selectman responded separately. Mrs. Hayes has not heard anything further regarding this matter. She noted that the Land Use files are always available for inspection by anyone.

8. REPORT OF OFFICERS AND COMMITTEES:

9. OTHER COMMUNICATIONS AND CORRESPONDENCE:

- 9.A. Administrative Permits and Certificates of Compliance – January 6 to February 7, 2020.- Reviewed.

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- 9.B. January 24, 2020, letter from All-Points Technology Corporation, P.C. regarding proposed cell tower at 93 Richards Road.

The Commission requested that the Land Use Office resend the letter originally drafted regarding this matter.

- 9.C. Monthly Financials – July through December, 2019 - Reviewed
- 9.D. Connecticut Federation of Planning and Zoning Agencies *Quarterly Newsletter*, Winter 2020. - Reviewed
- 9.E. Connecticut Federation of Planning and Zoning Agencies Notification of Annual Meeting - Reviewed

10. **ADJOURNMENT**

Mr. Wyrick moved to adjourn at 9:45 p.m. Mr. Manes seconded and the motion carried unanimously.

Respectfully submitted,

Tai Kern

Tai Kern, Land Use Clerk

RECEIVED
2/13/2020

To the Planning and Zoning Commission of Kent,

I am writing to support the proposed text amendment that would effectively slow the growing number of sober homes and stop the convalescent home industry that is growing in Kent.

I have seen first hand what can happen when a business is established in a rural zone. With property values on the decline in Kent, and an upswing in rehabilitation facilities, current owners and new buyers are looking to turn a profit by converting homes into businesses that are part of a now growing recovery industry in our town.

This past summer neighbors on Carter road organized and spoke out against a proposed large sober facility on our road. This was a more than six month long process, which was mounted with great concern and at great expense. This text amendment will prevent this type of permission from being sought again.

We are now living with a huge expansion of High Watch Recovery center, which has is increasing traffic and has diminished the beauty of our road. Businesses that look to establish themselves and then seek to expand are often litigious and cost the town more than it might be able to afford. We would like to get ahead of and restrict future expansions that change the character of our town.

I believe the town is right to vote to establish limits to expansion of the ample number of existing care facilities and prevent the growth of new convalescent and recovery-based businesses in rural zones.

Thank you.

Sincerely,

Ellen Alfest
Carter Road

2/12/2020

Town of Kent CT Mail - Letter of support



Donna Hayes <landuseadmin@townofkentct.org>

Letter of support

1 message

RECEIVED
2/12/20
DMH

Rob Colvin <rob.e.colvin@gmail.com>

Wed, Feb 12, 2020 at 1:18 PM

To: landuseadmin@townofkentct.org

Dear Donna,

I am writing to state my full support of your proposal to remove SECTION 3224.8: from the Kent zoning regulations. I also support the rewriting of the definition of "convalescent home," as the proceedings of Mr. Roberti's recent application made clear that the board, Mr. Roberti, or people of Kent in attendance did not agree or understand what the term did and did not mean. In my letter of ~~decent~~ to Mr. Roberti's application, I treaded lightly on this problem, but did point out that the current definition does not square with common uses, also seen in facilities nearby, such as Middlebury Convalescent Home.

Thank you for registering my support.

Rob Colvin
110 Carter Road
Kent, CT 06757

*dissent
(typo per Mr. Colvins' email)
see attached.*



Donna Hayes <landuseadmin@townofkentct.org>

in support of proposed changes to zoning regulations

1 message



Karen Altfest <KAltfest@altfest.com>

Mon, Feb 10, 2020 at 4:53 PM

To: "landuseadmin@townofkentct.org" <landuseadmin@townofkentct.org>

February 10, 2020

Dear Land Use Administration,

This letter is to affirm that I support the proposed amendment (Removal of Section 3224.8, renumbering of the listed sections, and rewriting of the definition of a convalescent home).

As a resident of Carter Road in Kent, I fear the use of our formerly quiet road for hospitals, clinics or nursing homes will further damage the pristine country road we used to have. Kent is a lovely small town; putting more commercial properties on a residential road can physically and environmentally harm the road, the area, and the town as well as the animals, the trees and plants, and the residents.

Cars whiz by, trash builds up, noise persists day and night, and strangers knock at odd hours. I am concerned that Kent is in danger of not remaining the community we came here for decades ago; our fervent wish is to preserve as much as we can of the solitude, fresh air, neighborliness, and rural living.

Hospitals, nursing homes, clinics, and convalescent homes are better suited to larger communities with downtown business districts, not to residential areas.

Many thanks,

Sincerely,

Dr. Karen C. Altfest

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