TOWN OF KENT
PLANNING AND ZONING COMMISSION
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NOVEMBER 14, 2019 REGULAR MEETING MINUTES

The Town of Kent Planning and Zoning Commission held a regular meeting on Thursday, November 14, 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, Marc Weingarten, John Johnson, Darrell Cherniske, Adam Manes

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

Anne McAndrew and Adam Manes were elevated to voting status.

Mr. Winter moved to add to the agenda item 6.B.1. Mr. Cherniske seconded and the motion carried unanimously.

3. READING AND APPROVAL OF MINUTES:

3.A. Regular Meeting Minutes of October 10, 2019

Mr. Winter moved to approve the Regular Meeting Minutes of October 10, 2019. Mr. Cherniske 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. 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.

Members Weingarten and McAndrew recused themselves.
Chairman Johnson re-opened the public hearing at 7:02 p.m. and reminded the group that this is a Zoning question before them. The Commission members read the 36 letters received for the record. (copies of the letters can be found on file in the Land Use Office).

Marc Weingarten came forward as the applicant and clarified that he has been a resident of Kent for 37 years. He is not antigun and is a gun owner. This proposal is not out of fear. His reason for moving the future gun stores into the industrial zone is to potentially reduce gun violence. Gun stores in the center of town are not compatible with the peaceful idyllic character of Kent. Fast food and big box stores were not demonized when they were zoned out of Kent. They were merely found inappropriate for Kent. He would like to understand the argument why it is so critical to have gun stores in the middle of Kent.

Matt Winter questioned how this regulation will increase safety. Mr. Weingarten explained that having gun stores in the center of town keeps guns in front of mind. Moving them away from the repeated scenes of gun violence distances peoples thinking. Locating these stores in the industrial zone will not make it any more difficult for people to purchase the guns they want.

Douglas Schloss from Cromwell Bridge explained that he is a gun owner and does not feel this proposal will prevent him from getting the guns or ammunition he needs. Kent is home to two internationally recognized boarding schools. This proposal says to parents that Kent is a community that takes the safety of its citizens seriously.

Eric Schultz submitted and read a letter for the record. (on file)

Brooke Cheney of Harwinton explained that she operates a gun safety school. She explained that gun stores are just another retail outlet. Gun stores make you safer. Lack of education causes accidents. She is a victim of a violent crime. The knife or the gun is not the reason for violent crime, it is the person. (letter submitted on record)

Ellen Cogut, resident of Kent for 47 years, would be sad to lose the culture of the Kent by allowing gun stores in the middle of town.

Andy Koolim of Brookfield suggested working with Chris Rehnberg about safety, if that is your concern. Kent is a model for what an inclusive small village should be.

Ken Seufert of Kent discussed the branding of the town. Right now Kent is a paradise. He does not want to brand the town as non-gun as this can also be a paradise for criminals. He questioned whether the Town wants people to go into industrial area for retail business. It is industrial for a reason. He does not see anything about the gun store that is causing a public nuisance.

John Johnson discussed the fact that Chris Rehnberg is a good business owner; however, it cannot be guaranteed that the next gun store owner will run a business the same.

Charmain Place of Kent remembered that they fell in love with the town and she does not feel that gun stores are part of the quintessential feel of the town.

John Johnson noted that the welfare of the town that the Zoning Commission is charged with considering encompasses the appearance of the town. He reminded the group that this is zoning question about the impact of gun stores.
Rhonda Schultz questioned whether there is an influx of gun stores trying to enter this town. Chairman Johnson explained that this proposal for a regulation change was brought by a citizen who paid the fee and wrote the proposed regulation.

Scott Harvey discussed that it is not right to regulate in this way with regard to retail vs manufacturing. It is the person that does what they do, not where the guns are sold.

Sean Conboy of Kent came forward and stated he stands firmly against this proposal. There are many regulations to operate a gun store. There are not many buildings available to house a retail business in the industrial zone.

Athenaide Dallet of Kent School spoke in terms of gun safety. Legal gun owners commit suicide at higher rates than those homes without guns. She spoke with her students about this. This is the Sandy Hook generation. The kids are terrified during lockdown drills. They do not like walking by guns stores. This is disturbing to them because they have to do these lockdown drills and know about every school shooting. Perceptions do contribute to our economy and parents will not send students to schools they do not feel are safe.

John Slowik noted that there are more and more studies about what these perceptions are doing to the kids. The private schools are the largest employers in this town. This is going to hurt the revenues driven by these schools. He respectfully disagrees with allowing people from other towns having a vote or a say on what happens in this town.

Wendy Murphy of Kent supports the proposal and resents people bringing the 2nd Amendment into this matter. This is a Zoning question. They do not need to be in the center of town as people do not just wander in and decide to buy a gun when they see a gun store.

Sharon Norton of Kent asked for an example of a restriction of a business based on preserving the character of the town. It was noted by the Commission that size and sign regulations are based on the Plan of Conservation and Development. The Architectural Review Board is based on creating a perception for the town.

Jane Zatlin of Kent noted that Kent residents should decide what should be the character of their town. She knows the kids are terrified. They are our future citizens and do not want to be reminded about guns. The character of our town is not about guns. Planning and Zoning should have the right to determine where some of these places should be allowed in the town.

Matt Winter asked about the children’s perceptions and whether they were taught. Ms. Zatlin questioned whether he has turned on the television. The children observe this from television and social media.

Kevin Lemay noted that he does not know what matters about how the opinion of the young children are formed.

Steve SanAndrea of Woodbury noted that the kids are frightened because the adults are making them frightened. The fact that firearms protect people is ignored. The kids are not getting the whole picture.

Lori Zrdack of Kent noted she supports Chris Rehnberg. Her kids grew up during 911 and were terrified also. We need to put on our big boy and girl pants and educate and protect ourselves.

Pam White grew up with guns as a child. She knows better now. Her father and her uncle killed themselves with guns. Her father had guns locked away, but she knew where he hid the key. We don't need people guarding us. We need to take hold of what we care about and do not need a reminder of the terrible stuff out there.
Patricia Oris of Kent came forward in favor of this proactive proposal. There is already a gun store in the downtown area. Another one is not needed. If the kids are terrified, then we should not have the gun stores in the middle of town. She believes the majority of home owners in Kent are in favor of this proposal. The people who are opposed are from outside of this town.

Diane Meyer of Kent explained that her business is perception and branding. This is how all of our decisions are made. 75 percent of gun violence happens in-home with suicide or a family member shooting family member. The perception is a powerful issue.

Jerry Martinez of Winchester finds the weaponization of our regulations disturbing. Fears are being used to push an agenda. It is important to look at the Zoning issues and not a political agenda.

Jonathan Walsh of Norwalk stated people naturally have a need for self-defense. If this is allowed in this town, then it will be allowed in his town.

Marie Varallo of Kent discussed that this is the perfect place to raise a young person and would not want it to be marred. The parents she has met have chosen Kent over other schools for that reason. Private schools do seem to be the lifeblood of this town.

Caralee Rochovansky of Kent stated she is a proponent of free enterprise. There is nothing to draw the kids back to Kent. Businesses in this town struggle. This is just a retail business. You have to keep the politics out of this.

Chris Rehnberg stated that his store has helped solve 6 crimes. He spoke of Nazi Germany taking guns from Jews. He noted the 2nd Amendment goes hand and hand with having a retail shop to buy guns. Many people from out of State who have kids in the school have come into the shop and said it was pretty cool to have a gun shop in this town. He buys a lot of weapons from Kent residents and sells them out of state. He questioned, if he was not there, where they would go. The industrial area is a hazardous area for retail shopping. We want to be a town where we are all accepting.

Lynn Harrington of Kent stated that her kids are very different from private school kids and are fine with the gun store. They were raised around guns and her kids are going to be the ones who are going to live here and be the future leaders. She also likes to shop local.

Michelle Bryant, fire arms instructor, has a child who was friends with children lost in Sandy Hook. She taught her daughter gun safety. To hide the gun stores is not going to fix the societal issues. It is not about perception.

Zane Charity of Kent noted that this is about how we want the town to be perceived. If people are interested in guns, they find them and know where they are. It is perfectly within the rights of the Zoning Commission to consider where we would want the sale of them to be located.

Donna Summers of Kent state that in her home town of Shelton the tax collector is next to the gun store.

Chris Harrington of Kent discussed the character of the town. He does not think Kent would like to be known as a gun hating community. Kent was always just a farming community and guns were a big part of that.

Karen Murano of Kent loves this town. Most people do not come here to buy guns. Kent needs to preserve their character. As a teacher at Kent School, it is frightening to have lock down. She would like the Commission to approve this proposal.
Darrell Cherniske questioned whether he would be in violation, if he brought his gun to a store within 1000 feet of the school. Chris Rehnberg explained that it is 100 percent legal to come to his shop with a loaded gun as long as you have a permit to carry.

Mr. Manes moved to close public hearing at 9:51 pm for 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 and the motion carried 3-1. Winter dissented.

Mr. Manes moved to continue discussion for 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. Winter seconded and the motion carried unanimously.

Anne McAndrew and Marc Weingarten were reseated.

5.B. DISCUSSION AND POSSIBLE DECISION

5.B.1. Application #’s 44-19SP and 64-19C, Dolores R. Schiesel, Esq. for Roberti Family, LLC, 175 Carter Road, change of use from single family dwelling and accessory dwelling unit to convalescent home, Map 14 Block 21 Lot 35.

The members discussed the criteria for making this decision. Donna Hayes reported that Attorney Mike Zizka confirmed that the change of use applies to the entire property; therefore, the new use would now apply to the guest house. She reported that Attorney Zizka is of the opinion that this proposal does not fit our definition of a convalescent home. John Johnson noted that he does not agree with Attorney Zizka’s opinion and is under the belief that you are never really cured of an addiction. Therefore, this use fits the definition of a convalescent home. Adam Manes read the definition of a convalescent home and felt that this proposal fits. Marc Weingarten agreed. Matt Winter also agreed and stated that what has been proposed fits within the definition. Darrell Cherniske stated that he feels the application would have been for a sober home, if that was a possibility under the regulations.

Alan Gawel, Fire Chief, reported that emergency services did not have enough information to give a definitive answer on whether this proposal meets standards. Attorney Dolores Schiesel objected to this testimony outside of a public hearing. Donna Hayes read aloud previous testimony from the emergency services reiterating enough information was not available. Mr. Manes suggested that a condition of approval be that the emergency services approve the site for access. He noted that this matter should have been resolved by the applicant during the public hearing process.

The members reviewed the draft motion of approval.

The members discussed the testimony regarding deliveries and traffic. It was thought that there would be nothing larger than a box truck delivering to the house. The group discussed staffing and it was uncertain whether more staffing would be required due to licensing requirements. Adam Manes noted that an appropriate operating plan was never presented. Matt Winter stated that he thinks this is an appropriate use, but he does not have enough information regarding how they will operate in order to properly condition this approval.

The members reviewed the draft motion of denial.
Darrell Cherniske stated that the perception of the neighborhood would be severe and notable even though this is low intensity compared to what is down the street. Adam Manes agreed that, with the current expansion of the existing facility on this street, this proposed facility would be too intense on the rural neighborhood. Matt Winter stated that it is arbitrary and capricious to say you are allowed to do something here on the road, but you are not allowed to do it down the road; thereby, devaluing property due to the pre-existing facility. Donna Hayes reported that Mike Zizka advised that it is okay to do that, because the existing facility predates zoning.

Traffic was discussed and Adam Manes felt this facility could not create a notable increase in traffic. Marc Weingarten stated that any increase in traffic in this neighborhood, which is already overburdened with traffic, would be too much.

Marc Weingarten and Adam Manes noted that the Commission received no information about the operation of the facility. The applicants do not know whether they need to be licensed or not. The applicants did not finish the work they needed to do in submitting this application.

Motion:

WHEREAS, Application #44-19SP, Dolores R. Schiesel, Esq. for Roberti Family, LLC, 175 Carter Road, change of use from single family dwelling and accessory dwelling unit to convalescent home, Map 14 Block 21 Lot 35 was submitted to the Land Use Office on June 25, 2019.

WHEREAS, Application #64-19C, Dolores R. Schiesel, Esq. for Roberti Family, LLC, 175 Carter Road, change of use from single family dwelling and accessory dwelling unit to convalescent home, Map 14 Block 21 Lot 35 was submitted to the Land Use Office on August 7, 2019.

WHEREAS, the Planning and Zoning Commission (Commission) opened a public hearing on application #44-19SP on July 11, 2019 and application #64-19C on August 8, 2019 and conducted subsequent public hearings on August 8, 2019 and permission was granted by the applicant to continue the public hearings to September 12, 2019, and September 26, 2019.

WHEREAS, the Commission closed the public hearing on both applications on September 26, 2019.

WHEREAS, the Commission conducted deliberations on the closed applications on October 10, 2019, and November 14, 2019.

WHEREAS, pursuant to §1210 and §1220 of the Kent Zoning Regulations, the purpose and intent of the Regulations is to: protect the public health, safety, convenience and property values; lessen congestion in the streets; secure safety from fire, panic, flood and other dangers; promote health and the general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; and facilitate the adequate provision for transportation, water, sewerage, schools, parks and other public requirements. In addition, these Regulations are intended to: confine certain classes of buildings and uses to designated localities or districts; regulate the use of land and the use, location, height and bulk of buildings and structures and determine the area of yards, courts and other open areas surrounding them; prevent activity detrimental to the environment; prevent destruction of the town's natural resources; protect natural, historic and cultural resources; provide for adequate solar radiation, light, air and privacy; provide for convenience of access to property; protect existing and potential surface and groundwater drinking supplies; promote the stability of property uses; promote the maintenance of property values; control the density of population in residential neighborhoods; prevent the overcrowding of land to allow space for adequate water and sewage systems; divide the town into zoning districts for the purposes described in Section 1200 and adopts maps showing the boundaries and the classification of such districts; and prescribe penalties for the violation of the provisions of these Regulations.
WHEREAS, at the conclusion of deliberations, the Commission made the following findings:

A. The following considerations warrant the denial of the application:
   a. With regard to §10440.4., which states: "Whether the nature and intensity of the operations involved with the use or resulting from the proposed use and the location of the site are such that the use will be in harmony with the appropriate and orderly development in the district in which it is located.", the Commission finds that the proposed change of use from a residential dwelling with an accessory dwelling to two non-residential facilities with a total of 14 client beds will create a greater cumulative impact upon the surrounding area by substantially increasing the intensity of the nonresidential use and the nonresidential population density in a rural residential neighborhood and, therefore, will not be in harmony with the character of the neighborhood or the Plan of Conservation and Development. The Commission notes that the approval of High Watch's recent application was based primarily on High Watch's long existence at that location.
   b. With regard to §10350.5.D., which states: "The adequacy of water, sewage disposal/ treatment and other public facilities to accommodate the development;", the Commission finds that the applicant has failed to submit sufficient evidence that the adequacy of the existing 4 bedroom septic would meet the standards of Torrington Area Health District if the applications were approved.
   c. With regard to §10350.5.C., which states: "The adequacy of access for fire, police and ambulance services;", the Commission finds that the applicant has failed to submit sufficient evidence of the adequacy of the access for emergency services.
   d. With regard to §10440.6., which states: "Whether the streets and other rights-of-way are or will be of such size, condition and capacity (width, grade, alignment and visibility) to adequately accommodate the traffic to be generated by the particular proposed use and not create traffic problems.", the Commission does find the change of use from a residential dwelling with an accessory dwelling to two convalescent homes with a total of 14 client beds would generate more external and internal traffic than a single-family residence. Consequently, the impact on the rural residential neighborhood would be more severe than it would if residential uses were being proposed.
   e. With regard to §10930., which states: "An application requiring approval from the Commission or Board shall not be considered actually complete until all of the information as required by these Regulations, the Commission, or the Board has been received by the Commission or the Board at a regularly scheduled meeting.", the Commission finds that the application is not complete due to the lack of details regarding the operation of the facility.

THEREFORE, BE IT RESOLVED, that upon a motion made by Mr. Winter and seconded by Mr. Cherniske, the Commission denies Applications #44-19SP and Application #64-19C, Dolores R. Schiesel, Esq. for Roberti Family, LLC, 175 Carter Road, change of use from single family dwelling and accessory dwelling unit to convalescent home, Map 14 Block 21 Lot 35.

Discussion: Mr. Cherniske believes the denial should include item A. from the draft regarding this activity not fitting the definition of a convalescent home. Mr. Johnson noted that he thinks this fits the definition of a convalescent home, but is on fence about branding of neighborhood. Mr. Manes discussed the further commercialization of a rural neighborhood and questioned when it stops and when is it that they begin to create a precedence. Mr. Winter reiterated that he thinks this is a good use for the property, if they had more information. Ms. McAndrew stated that this is an admirable and sincere proposal, but we have to think about the other people
in the neighborhood. Mr. Weingarten agreed that this is a further commercialization of a rural zone. Mr. Cherniske stated that he feels that commercial activities in a residential neighborhood impact that development. The motion carried unanimously.


Mr. Manes moved to table discussion regarding 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.). Mr. Winter seconded and the motion carried unanimously.

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

Mr. Manes moved to table discussion regarding 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. Winter seconded and the motion carried unanimously.

6. NEW BUSINESS:

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

6.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 opened at 11:47 p.m. and the legal notice was read for the record.

Dave Bjorkland came forward and clarified that the total square footage with this addition will total 9000 square feet. He reviewed the plan for the addition to the existing Admissions Building. He reviewed the reorganization of the walkways and advised that lighting will be slightly relocated, but no new lighting will be added. The addition will be 135 feet from the road. The current underground electric service will be abandoned. New service will come from the transformer by the Science Building. Roof drains will run to dry wells. No new parking is proposed.

Donna Hayes reported that this is within the flood plain. Both the Building Official and Fire Marshal have reviewed the plan and she has given an agent permit for wetlands. It was agreed that the plan should be reviewed by the town’s engineer.

Mr. Winter moved to continue 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. Manes seconded and the motion carried unanimously.

6.B. DISCUSSION AND POSSIBLE DECISION

6.B.1. Modification to Applications #106-18SP and 107-18C, by High Watch Recovery Center, Inc., for 54 Carter Road (Map 14 Block 22 Lot 6); 62 Carter Road (Map 14 Block 22 Lot 7); and the 15.48-acre unimproved parcel of land (Map 14 Block 21 Lot 23, Parcel I.D. #1486) abutting the northerly line of Carter Road and the southeasterly line of 47 Carter Road, for a special permit and site plan approval for the following: Construction of two-story addition (including offices, 218-
seat lecture hall and 12-bed detoxification wing) to existing administrative and clinical office building at 62 Carter Road; single story addition and kitchen expansion to dining hall at 62 Carter Road; addition of detoxification service at 62 Carter Road; increase in total residential in-patient bed count from 78 to 90 at 62 Carter Road; conducting therapeutic activities (including temporary housing of staff) associated with the treatment of drug and alcohol addiction at 54 Carter Road; constructing expanded landscaping/vegetative screening, driveway entrance, parking area, retaining wall and stormwater detention basin at 54 Carter Road and 62 Carter Road; constructing new septic system on Parcel I.D. #1486; and associated site work on all three parcels. **Modification to include the elimination of condition #22:** All required approvals from the Town of Kent Fire Marshal for the proposed uses must be obtained, and copies of such approval(s) submitted to the Land Use Office, before a Zoning Permit shall be issued. The applicant or its successors or assigns must also submit an affidavit signed by a duly authorized official of same, attesting under oath that the approvals so submitted represent all approvals required from the Town of Kent Fire Marshal to conduct the proposed uses.

Donna Hayes reminded the members that one of the conditions of the approval for this zoning permit is Fire Marshal approval. The applicant is asking for a modification to eliminate this condition.

A letter from Fire Marshal Stan MacMillan dated 11/14/19 was read aloud for the record noting that he is confident that the final plan will meet the Fire Code. Additionally, Building Official Joseph Manley feels comfortable that a foundation only building permit can be issued at this time. Donna Hayes explained that the Commission needs to make the determination whether this modification is important enough to warrant a public hearing.

**Mr. Weingarten moved to approve the modification to alter Condition 22 so that it reads as follows:** All required approvals from the Town of Kent Fire Marshal for the proposed uses must be obtained to the extent required to permit the construction of the foundation ONLY. This alteration of condition is based on the November 14, 2019 letter from Fire Marshal Stan MacMillan. This alteration of condition does not negate the requirement of a Fire Marshall sign off on the entire project. The remainder of the condition remains as previously approved: All required approvals from the Town of Kent Fire Marshal for the proposed uses must be obtained, and copies of such approval(s) submitted to the Land Use Office, before a Zoning Permit shall be issued. The applicant or its successors or assigns must also submit an affidavit signed by a duly authorized official of same, attesting under oath that the approvals so submitted represent all approvals required from the Town of Kent Fire Marshal to conduct the proposed uses.

**Mr. Manes seconded.**

**Discussion:** Mr.-Winter questioned the hardship for this matter and noted that this burden is being placed upon the Zoning Commission. The hardship cannot be not monetary or weather related.

The motion carried. Winter dissented.

7. **STAFF REPORT:** No action taken.

8. **REPORT OF OFFICERS AND COMMITTEES:** No action taken.
9. OTHER COMMUNICATIONS AND CORRESPONDENCE:

9.A. Administrative Permits and Certificates of Compliance – October 7 to November 8, 2019 - reviewed

9.B. Capital Budget Project Request Forms – FY ’20 – ’21

The group reviewed the Capital Budget Project Request Forms – FY ’20 – ’21 and decided not to add any additional capital proposals.

Mr. Manes moved to return the requested information with no additions from FY 2025 to FY 2029. Mr. Weingarten seconded and the motion carried unanimously.


10. ADJOURNMENT

Mr. Weingarten moved to adjourn at 12:24 p.m. Mr. Cherniske seconded and the motion carried unanimously.

Respectfully submitted,

Tai Kern

Tai Kern,
Land Use Clerk