

**TOWN OF KENT
ZONING BOARD OF APPEALS**

41 Kent Green Boulevard
P.O. Box 678
Kent, CT 06757

AUGUST 9, 2016 REGULAR MEETING MINUTES

The Town of Kent Zoning Board of Appeals held a regular meeting on August 9, 2016 at 7:00 p.m. in the Kent Town Hall.

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BY *Van Valkenburg*
TOWN CLERK

- 1) Call to Order and Roll Call

Mr. Van Valkenburg called the meeting to order at 7:00 p.m.

Board Members Present: Mike Van Valkenburg, Acting Chairman; Anne Bisenius, Nick Downes, Edward Hoffman, Daniel Murray

Staff Present: Donna Hayes, Secretary/Clerk

- 2) Appointment of Alternates(s) to Voting Status.

Mr. Van Valkenburg elevated Ms. Bisenius to voting status.

- 3) Acceptance or Revision of Agenda

Mr. Hoffman moved to approve the agenda as presented. Mr. Downes seconded and the motion carried unanimously.

- 4) Reading and Approval of Regular Meeting Minutes of July 12, 2016.

Mr. Hoffman moved to approve the Regular Meeting Minutes of July 12, 2016 as written. Ms. Bisenius seconded and the motion carried unanimously.

- 5) Recess Meeting. Convene Hearing:

The Hearing convened at 7:02 p.m.

- 5.1. Application #04-16, Steve Pener for William & Beth Dooley, 23 South Main Street, relief from Sections 18.1.3., 18.2.2., 18.4.2., and 18.4.3., Map 4 Block 12 Lot 1

Mr. Pener was present representing the property owners. He explained that the property owners had owned the building since 1985 and the building is operating under the same use as when it was purchased. The building is a pre-existing, non-conforming structure that houses two commercial businesses: Dooley Real Estate and a tax accountant. Mr. Pener explained that they are trying to sell the building and were exploring a mixed use ability. During the research, they realized that they would need a special permit for the mixed use and possibly a variance due to the fact that the building is non-conforming.

Mr. Pener told the Board that they currently have 8 parking spaces at the back of the building according to the dimensional requirement but they have parked more cars back there than that. If you look at the current requirement, which is 1 space

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for every 200 sq. ft. of GFA, they would need 18 spots to be in compliance with the regulations. The parking requirement for mixed use would be 13 spots. Mr. Pener said there is no opportunity to increase the number of parking spaces. By changing the use they would lessen the intensity because the tenants cars would be gone when the business is open and vice versa.

Mr. Pener said one other issue is the access isle width. Currently, the access isle is 16' in width and the requirement is 24'. He said there have been no problems with the width of the access isle.

With regard to the buffer, Mr. Pener said that they are only 5' from the property line. He continued that there is a stockade fence between the back of the property and Kent Housing for the Elderly. The current owners did install a split rail fence along the northern and southern sides of the property. The parking spaces along the back of the building are much closer because the building has a loading dock from a previous use. Mr. Van Valkenburg commented that Kero-Sun Country Stove started their business in this building. Mr. Downes said that he, along with 40 other employees, worked on the second floor but couldn't remember where they all parked. Mr. Pener said that there is an unwritten shared parking agreement with Kent Arts.

Mr. Pener said that the POCD has sections that promote a mixed use in the Village Center-Commercial district and the building is located within an area that has mixed uses already.

Mr. Hoffman asked Mr. Pener what his hardship was. Mr. Pener replied that they can't change the building; it cannot get any smaller. The parking cannot be changed, either.

Mr. Hoffman asked if there were any comments from the neighbors. Ms. Hayes replied that she had not received anything in writing, but that there was a neighbor present who would like to speak.

Mr. Robert Impastato, the new owner of 25 North Main Street, told the Board that they will be installing an 18" berm with approximately 15 trees in the area between the buildings. He did ask if the property owners would be willing to switch out the split rail fence with a stockade fence because he didn't want the lights from the cars shining into his house. Mr. Pener asked if Mr. Impastato wanted them to replace the split rail fence just along the parking area and Mr. Impastato replied that he would like it to run the entire length of his driveway.

Mr. Hoffman asked if there was a 5' margin between the front of the parking spaces and the property line. Mr. Pener replied yes and added that was the case along the back of the property. The stockade fence along the back of the property protects Kent Housing for the Elderly and that their installation was a requirement when the structures were built. Mr. Pener said that he did not think there would be a problem installing the stockade fence in between 23 and 25 South Main Street, but would argue that it was not needed for the entirety of the driveway for 25 South Main Street. He did not think it would be very welcoming to those people heading north on Route 7. Mr. Hoffman asked if this was part of the Village District and Ms. Hayes said that it was. He continued that the fencing would have to be approved by the Architectural Review Board. Mr. Impastato suggested phasing it out as it gets closer to Route 7 and said that they plan on planting arborvitae on the berm.

Mr. Hoffman said that, theoretically, if the Board does nothing, the Town could have 40 people back in the building, building/selling stoves. Mr. Pener told the Board that it is not their intention to make the change themselves but to allow the next owner to have possibilities. If they want to keep it as the current use, the special permit would never be filed. Mr. Murray asked why a special permit is required. Mr. Pener said that if they wanted to, they could convert the building into a two family structure, which is permitted as of right under the current zoning regulations. Ms. Bisenius added that the mixed use of commercial/residential triggers a special permit approval. Mr. Murray said that this is to give the sellers options. Mr. Downes said that if someone wanted to run their business out of the bottom floor and live on the second floor, the special permit would allow it. Mr. Impastato said that they had originally thought to look at the building to make it a two family house, but the house next door came on the market and it was a better fit for his family. Ms. Bisenius clarified that the current use of the building is office; not retail.

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Mr. Hoffman commented that he thought this a mixed use would be moving to a less-intensive use and would essentially be lessening the non-conformity.

Mr. Pener asked if the variance can be conditioned with regard to the fencing. Ms. Hayes said that it could. Mr. Murray said that it will still have to fall in place with the Village District requirements.

Mr. Hoffman said that he considers this a decrease in the non-conforming use. Mr. Hoffman asked Mr. Impastato if he agreed with that. He said that he did but did not know how the stockade fencing will look or transition. Mr. Hoffman said that the stockade fence might not do well for the trees because there will be no sunlight at the back. Mr. Impastato said that the removal of the large pine trees, has lightened up the area.

Ms. Bisenius stated that the POCD does encourage mixed use in the Village District area.

Mr. Impastato asked if anyone knew why the rear stockade fence stops at his property line. He said he was told that the area was densely forested, but it has since been cleared out with approximately 50' of area completely open.

Mr. Van Valkenburg asked how long the access aisle requirement was 24'. Ms. Hayes explained that a single access is 12' and an entrance/exit required the 24'. Mr. Downes reminded the Commission that they had just encountered that with the Bain application.

Mr. Hoffman asked how the Board wanted to handle the fencing. He suggested that it be deferred to the Planning & Zoning Commission to discuss during the special permit application. Mr. Pener said that he would like to work with Mr. Impastato on finding a mutually agreeable design of the fence. Ms. Hayes asked how far the split rail fence ran. Mr. Pener said that it runs almost to Rte. 7. It was suggested that the stockade fence stop at the front of Mr. Impastato's house and the rest of the split rail be removed. Mr. Impastato said that he was looking at putting up a split rail fence with chicken wire and plantings along the back of his property. Mr. Hoffman said that putting up the stockade fence might be too confining. Mr. Pener agreed and said that it was very nice when the stockade fence at the back of the property was temporarily removed.

6) Close Hearing. Brief Recess

The Hearing closed at 7:26 p.m. and there was no brief recess.

7) Reconvene Meeting. Action on Appeal(s) Heard

The meeting reconvened at 7:26 p.m.

Mr. Hoffman moved to approve Application #04-16, Steve Pener for William & Beth Dooley, 23 South Main Street, relief from Sections 18.1.3., 18.2.2., 18.4.2., and 18.4.3., Map 4 Block 12 Lot as presented due to the fact that it is a potential reduction in a non-conforming use.

Mr. Murray added that it would encourage a mixed residential/commercial use. Mr. Downes added that it is in keeping with the Town Kent's Plan of Conservation and Development.

Mr. Downes seconded and the motion carried unanimously.

8) Old Business

No action taken.

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9) New Business

No action taken.

10) Communications

10.1. Connecticut Federation of Planning and Zoning Agencies, Quarterly Newsletter, Summer 2016.

Mr. Murray said that he would like to continue this discussion to the next meeting because he had a few questions that he would like to ask Chairman DiPentima.

Mr. Murray moved to table Connecticut Federation of Planning and Zoning Agencies, Quarterly Newsletter, Summer 2016 to the next regular meeting. Ms. Bisenius seconded and the motion carried unanimously.

11) Executive Session. Pending 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.

Having no new information to discuss, the Board did not go into Executive Session.

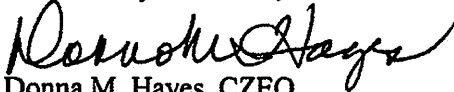
12) Open session involving discussion and possible action.

No action taken.

13) Adjourn

Mr. Hoffman moved to adjourn at 7:30 p.m. Mr. Murray seconded and the motion carried unanimously.

Respectfully submitted,


Donna M. Hayes, CZEO
Secretary/Clerk

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