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By Darlene Brady at 10:00 am, Sep 14, 2023

**TOWN OF KENT
ZONING BOARD OF APPEALS**

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

REGULAR MEETING MINUTES

Tuesday, September 12, 2023

The Zoning Board of Appeals held a regular meeting beginning at 7:00 p.m. via zoom on Tuesday, September 12, 2023.

1) Call to Order and Roll Call

Ms. Bisenius opened the meeting at 7:02 p.m.

Board Members Present: Anne Bisenius, Chairman; Nick Downes, John Johnson, Steve Pener, Justin Potter

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

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

Ms. Bisenius elevated Mr. Potter to voting status.

3) Acceptance of Agenda

Mr. Pener moved to accept the agenda. Mr. Johnson seconded and the motion carried unanimously.

4) Reading and Approval of Meeting Minutes

4.1. Regular Minutes of August 8, 2022.

Ms. Hayes pointed out that the agenda item should read August 8, 2023 and not August 8, 2022.

Mr. Downes moved to accept the Regular Minutes of August 8, 2023, as written. Mr. Johnson seconded. The motion carried with 4 Yays and 1 Abstention by Mr. Pener due to the fact that he was not present at the meeting.

5) Public Hearing

The public hearing was opened at 7:04 p.m.

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REGULAR MEETING MINUTES FOR SEPTEMBER 14, 2023**

These are draft minutes and reflect a summary of discussions and relative motions. 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.

5.1. Application 03-23, Marc Poynton, Fine Home Contracting, for John Davidson, 250 Schaghticoke Road, Map 5 Block 3 Lot 2, increase in non-conformity.

Mr. John Davidson, property owner, and contractor, Mr. Joe Gleason, were present to address the Board.

Ms. Bisenius referred the Board to the staff report prepared by Ms. Kern.

Mr. Davidson said he purchased the property in June of last year with the idea of joining the two buildings into habitable space. Ms. Bisenius asked if the neighbors had been advised of this application and Mr. Davidson said that he had sent out certified letters and dropped off the receipts to the Land Use Office.

Ms. Bisenius asked if the addition would encroach on the setbacks. Mr. Davidson said that it would not, but the existing screened porch does encroach on the front yard setback and the deck on the second unit also encroaches on the front yard setback. There is an existing shed which encroaches into the front yard setback as well. The connector does not encroach on any of the setbacks. Ms. Bisenius asked what the lot coverage would be and Mr. Davidson said that it would be 7.4%. When asked if the sheds were going to be connected to the main structures, Mr. Davidson replied that they were not and he would be willing to eliminate the shed if needed.

Mr. Downes asked if both houses were built non-conforming. Mr. Davidson said that he was unsure of the exact dates but thought one was built in 1908. Ms. Kern reported that the second structure was built in 1990 as an accessory structure. Mr. Downes asked if the second structure is currently a house. Ms. Kern said that there was an approval to expand the original cabin, but a variance was granted by the ZBA after the conversion due to a construction error locating the structure within the side setback. The construction of a screened porch within the front setback was denied at that time, but it appears that it was built anyways. The deck on the front of what was originally intended to be a studio/storage is within the setback as well.

Mr. Pender asked if Mr. Davidson could verify the information on the tax assessor card. He explained that there are some discrepancies.

Ms. Kern explained that the Inland Wetlands Commission and Torrington Area Health have approved the application, but the owner would still need approval from the Housatonic River Commission and Planning and Zoning due to the fact that the property is within the Floodplain. It is still unclear as to whether the proposal will be within the inner corridor overlay and a surveyor will need to provide confirmation.

Mr. Johnson asked what the Board would be approving. Ms. Kern said that they would be approving the expansion of a pre-existing nonconforming structure with the closest point to the front line setback at 35 feet and 27.86 feet from the side yard.

6) Close Hearing. Brief Recess

Mr. Potter moved to close the public hearing at 7:18 p.m. Mr. Johnson seconded and the motion carried unanimously.

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

The meeting reconvened at 7:18 p.m.

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Mr. Downes moved to approve the application as submitted based on the problems that are typically assigned to older structures. He believes that the structure is keeping within the area and does not go against the overall plan. Mr. Johnson seconded.

During discussion, Mr. Pender asked if the shed was permitted. Ms. Kern said that the front shed was pre-existing; the one behind it came in as a garage and was installed with a permit. Mr. Downes asked about the zoning regulations dealing with additions that have not been approved and asked if the Board should make a decision based on the removal or compliance with zoning. Ms. Kern said that generally, any structure that exists longer than 3 years without any enforcement action, shall continue to exist. In this case, due to its nonconformance, the Board could deny variance because the property owner could remove to make the structure more conforming. There are no notices of violations on file with regard to either the non-conforming deck or shed. In 1997, there was a permit issued for the addition, but it was discovered that the addition encroached on the side setback. This came forward when the owners applied for a front porch variance. During that discussion, the Board approved the encroachment on the rear and not the new porch. By approving this new addition, the Board is only approving the increase to the non-conformity of the two habitable structures and not the location of the non-conforming shed. Mr. Potter said that it seems to him this work will make the property more cohesive. Mr. Pender agreed and added that it is reasonable. Mr. Johnson said that he agrees with the sentiments and agrees that it is an agreeable proposal. He continued that he did not even notice the two sheds. He believes the encroachment of the deck is minimal. Ms. Bisenius said that the result will be one home with accessory buildings which is more in keeping with the surrounding area.

No other comments were made and the question was called. The motion carried unanimously.

8) Communications

8.1. Connecticut Federation of Planning and Zoning Agencies Quarterly Newsletter – Spring 2023

Mr. Pender asked Ms. Kern if the P&Z will be addressing short term rentals. Mr. Potter said that Sherman has an ordinance about short term rentals. Mr. Pender added that Washington and Woodbury also have guidelines regarding short term rentals. Mr. Pender said there are approximately 40 in Kent alone with 600 in the NW corner.

Ms. Kern reminded the Board about the continuing education requirements.

No action taken.

9) Adjourn

Mr. Pender moved to adjourn at 7:36 p.m. Mr. Downes seconded the motion carried unanimously.

Respectfully submitted,

Donna M. Hayes

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Secretary/Clerk

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