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By Darlene Brady at 11:14 am, Sep 22, 2021

TOWN OF KENT
ZONING BOARD OF APPEALS
41 Kent Green Boulevard, P.O. Box 678, Kent, CT 06757

SPECIAL MEETING MINUTES

The Zoning Board of Appeals held a special meeting on Tuesday, September 21, 2021, at 7:00 p.m., via zoom.

- 1) Call to Order and Roll Call

Mr. DiPentima called the meeting to order at 7:07 p.m.

Board Members Present: Anthony DiPentima, Chairman; Richard Barber, Nick Downes,
Daniel Murray, Patricia Oris

Staff Present: Donna M. Hayes, Secretary/Clerk

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

Mr. DiPentima elevated both Mr. Barber and Ms. Oris to voting status.

- 3) Acceptance or Revision of Agenda

Mr. Murray moved to accept the agenda as presented. Mr. Barber seconded and the motion carried unanimously.

- 4) Reading and Approval of Meeting Minutes

4.1. Regular Minutes of January 12, 2021.

Mr. Barber moved to approve the regular meeting minutes of January 12, 2021 as written. Ms. Oris seconded and the motion carried unanimously.

- 5) Recess Meeting. Convene Hearing

Mr. DiPentima recessed the meeting and convened the hearing at 7:10 p.m.

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5.1 Application #02-21, David & Deborah Bain, 30 Studio Hill Circle, Map 9 Block 22 Lot 113, relief from §3240, rear yard setback, for the installation of an inground pool and pool equipment.

Both Mr. & Mrs. Bain were present to address the Commission. They explained that they wanted to install an inground swimming pool and the only place to put it was up tight against the back of the house due to the fact that the underground utilities and geothermal heating system were placed along the right side of the property and their driveway and septic system were along the left side of the property. When the house was placed on the property it was tucked back against the property line.

Mr. DiPentima asked if the pool was going to be used for recreational purposes and if so, he was having a hard time understanding what their hardship was. He asked if there were any health-related issues that require the use of the pool. Ms. Bain replied that in their previous home they swam every day to help with their arthritis but she did not have a note from their doctor stating that a pool was needed for health reasons. She did mention that around 2008 they did ask the abutting land owners, the Kent Land Trust, if they had any objections to placing the pool so close to their property line and the Bain's received a letter from the Land Trust stating that they had no objection. It was noted by Ms. Bain that they have not had that letter updated.

Ms. Oris asked for clarification on whether or not the Bain's were encroaching on the Kent Land Trust property. Mr. Bain said that they were not encroaching on the property but were encroaching on the zoning set back. Mr. Barber stated that he did not think this would be a problem since there were only encroaching into the zoning setback and not the adjoining property.

Mr. Downes asked if they had contacted the Kent Land Trust about a possible land swap in order to reduce the non-conformity since it is the ZBA's charge to accomplish conformity. Mr. Bain said that had not. Ms. Bain added that the pool will not be seen from the road or by the neighbors.

6) Close Hearing. Brief Recess

The hearing closed at 7:20 p.m. and no brief recess was taken.

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

The meeting reconvened at 7:20 p.m. and the following motion was made and discussion was held:

Mr. Barber moved to approve based on the fact that the pool was not going to interfere with anyone close to where the pool will be located. Mr. DiPentima asked if Mr. Barber was saying that the installation of the pool would not severely impact the strategic plan of the Town and that given that the abutting neighbors are the Land Trust, granting this application without an undue hardship would not unduly encroach on the strategic plan? Mr. Barber replied that was correct. Mr. Downes seconded the motion.

Mr. Murray said that he did not know what the hardship was and Mr. DiPentima replied that there was not one. Mr. Bain was given permission to speak and he commented that the hardship was that there was no other place to put the pool. Mr. Murray said that there have been similar situations in the past and that disappointment in the property is not a hardship. He continued that Mr. Downes presented a thoughtful solution that has been used before and it might be a possibility. Mr. Bain replied that it might be a possibility. Ms. Bain asked why the KLT would want to do that. Mr. Downes said that suggesting a swap or a lot line revision would not cost anything and would resolve the non-conforming issue and would not

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require the issuance of a variance. He continued that everyone is right, there is no hardship. Mr. DiPentima suggested that some negotiation with the Land Trust be done to see if the Bain's can negotiate a land swap or boundary change. He asked if Mr. Bain would be willing to withdrawal the application as there were two members of the Board who did not seem to be in favor; it would be Mr. Bain's choice. Mr. Bain said that the Land Trust would have to have a board meeting and he was not sure they would agree to a land swap. He decided that he would like the Board to make a decision. Ms. Bain agreed.

There being no further discussion, Mr. DiPentima polled each member as follows: Mr. Barber; In Favor: Ms. Oris, In Favor: Mr. Downes; In Favor: Mr. Murry; Reluctantly In Favor: Mr. DiPentima; Reluctantly Voting In Favor only because the adjoining property owner was the Kent Land Trust. Motion carried unanimously.

8) Old Business

No action taken.

9) New Business

No action taken.

10) Communications

10.1. *Connecticut Federation of Planning and Zoning Agencies Quarterly Newsletter, Winter 2021*

No action taken.

10.2. *Connecticut Federation of Planning and Zoning Agencies Quarterly Newsletter, Summer 2021*

No action taken.

11) Adjourn

Mr. Barber moved to adjourn at 7:36 p.m.

Respectfully submitted,

Donna M. Hayes

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Secretary/Clerk

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