

May 15, 2023

Approved: June 19, 2023

**TOWN OF KENT
ZONING BOARD OF APPEALS
FINAL ADOPTED MINUTES
MAY 15, 2023**

The Zoning Board of Appeals of the Town of Kent held their May 15, 2023 meeting at the Kent Town Hall. Mr. Gordon Moccio called the meeting to order at 7:30 P.M. Mr. Moccio asked that the audience and ZBA join him in the Pledge of Allegiance. Mr. Moccio asked that applicants come forward to the podium, sign the sheet provided for guests' signature and submit the green postal cards to the ZBA Chairman when their names were called.

Present:

Mr. Gordon Moccio, Chairman
Mr. Ronald Hansen, Vice Chairman
Mr. Joseph Greico
Mr. Robert Ulich, Alternate ZBA Member
Mr. Bill Walters, Building Inspector
Mr. Andrew Wells, Alternate ZBA Member

Absent:

Mr. Travis Hunt

NOTICE IS HEREBY GIVEN that the Zoning Board of Appeals reviewed the following applications at the May 15, 2023 meeting:

1. Ryan Connor
2765 Old Route 301
Carmel NY 10512

“ZBA-23-012 - The applicant requested a 16 foot side yard Area Variance in order to reconstruct 24 x 24 ft. shed. Tax Map 31.15-1-8

2. Biaggio & Janice Conti
13 Larchmont
Carmel NY 10512

ZBA-23-014 The applicant requested an Area Variance for a rear yard 19'6” setback in order to construct a shed. Tax Map# 33.5-1-77 & 78

Mr. Frank J. Smith, III, an attorney with Shilling Law firm, represented the applicants, Mr. and Mrs. Conti, who also attended the meeting. The property is approximately 1/2 acre, including a vacant lot and is situated in an R-10 zoning district. There is an existing shed, which has been on the property for 40 years. The Town Code requires a 20’ rear yard setback. The applicants requested a 6” variance, which requires a 19’6” area variance. Prior to the meeting a survey was provided showing the location of the sheds prior and after the vacant lot was purchased. In addition to the survey the following items were submitted:

- A copy of the deed to the vacant lot;
- A copy of the merger application;
- A Memorandum of Law; and
- An Affidavit of support from the applicants

The applicants purchased the property on August 3, 1983and, at that time, a shed was located on the property and the applicant replaced that shed shortly thereafter. At that time it was discovered that the sheds encroached on neighboring parcels. The larger shed encroached on the neighbor in the rear of the property and the smaller shed encroached onto the vacant lot. The applicant purchased the vacant lot on February 9, 2023 and approached the neighbor regarding an easement for the shed, which encroached on their property, and they politely declined. The applicants also reimbursed the Town for back taxes on the vacant lot. By purchasing the vacant lot any encroachments on the property was resolved and the second shed was removed in order to allow the larger shed to remain on the property.

Following is a Summary of AREA VARIANCE CRITERIA (5):

Balancing Test – Board of Appeals shall balance the benefit to applicants with detriment to health, safety & the welfare of the community. The Board of Appeals shall also consider:

- Will granting the variance impact the surrounding neighborhood?

The shed has existed on the property for nearly 40 years. Sheds are allowed in this zoning district. By granting this variance, the neighborhood would be improved due to the removal of the encroachment.

- Can the need for an area variance be obviated?

The need for the variance may not be obviated. When the applicants became aware of the encroachments, they took every imaginable step in order to solve the issues presented. They purchased the vacant property and paid the back taxes due on the property which were in arrears. The second shed was removed in order to allow the larger shed to remain on the property. The the topography of the property makes this location the only feasible location.

- Is the variance substantial?

Although this variance is substantial, by granting it, a number of issues will be remedied which were previously mentioned. There would no longer be any encroachments,

- Will the environment be negatively impacted if the variance is granted?

There will not be any impact to the environment because the shed has existed on the property for almost 40 years and has not negatively impacted the environment and there are no proposed environmental changes.

- Was the difficulty self-created?

The difficulty was not self-created because the shed was on the property when the applicant purchased it in 1983. When the violation was issued the applicants made every effort to solve the problems.

Mr. Moccio said that the Zoning Board had reviewed the material submitted and would like the applicants to consider a 2' setback which would allow an 18' variance to allow room to move around the shed. Mr. Smith replied that the shed would be rotated in order to be parallel to the vacant lot and parallel to the rear property line. Also, if the applicants received a variance in excess of 6" excavation would be necessary and they want to avoid that. The applicant agreed to make the changes recommended by the ZBA.

Mr. Moccio asked for a motion to grant a 2' setback and an 18' variance regarding this property. Mr. Hansen made the motion and it was seconded by Mr. Wells, Following were the roll call votes:

Gordon Moccio, Chairman	<u>Aye</u>
Ronald Hansen, Vice Chairman	<u>Aye</u>
Joseph Greico	<u>Aye</u>
Travis Hunt	<u>Absent</u>
Robert Ulich, Alternate Member	<u>Aye</u>
Andrew Wells, Alternate Member	<u>Aye</u>

The motion carried.

The following request for a variance was held over until the June 2023 meeting:

1. Julia Vishnepolsky
69 Clubhouse Dr.
Carmel NY 10512
(Adjourned to June)

ZBA-23-013 Area Variance for 20 ft. road frontage, for one family dwelling Tax Map 33.35-1-46

Zoning Board of Appeals Minutes

May 15, 2023

Mr. Moccio asked for a motion to approve the ZBA Minutes from the April 2023 meeting. Mr. Wells reminded the Board that he had made some modifications to the April minutes, which needed to be incorporated into them. Mr. Moccio asked for a motion to approve the April 2023 minutes with changes. The motion was made by Me. Wells and seconded by Me. Ulich. Following were the roll call votes:

Gordon Moccio, Chairman	<u>Aye</u>
Ronald Hansen, Vice Chairman	<u>Aye</u>
Joseph Greico	<u>Aye</u>
Travis Hunt	<u>Absent</u>
Robert Ulich, Alternate Member	<u>Aye</u>
Andrew Wells, Alternate Member	<u>Aye</u>

The motion carried.

Me. Moccio asked for a motion to adjourn the meeting at 8:00 PM. The motion was made by Mr. Hansen and seconded by Mr. Wells. Following were the roll call votes:

Gordon Moccio, Chairman	<u>Aye</u>
Ronald Hansen, Vice Chairman	<u>Aye</u>
Joseph Greico	<u>Aye</u>
Travis Hunt	<u>Absent</u>
Robert Ulich, Alternate Member	<u>Aye</u>
Andrew Wells, Alternate Member	<u>Aye</u>

The motion carried.

Cordially Submitted,



Vera Patterson

CC:

Town Clerk
Town Board
Zoning Board of Appeals Members
Wm. Walters, Building Inspector
Sheila Finneran, Building Dept. Clerk
Planning Board Clerk

May 15, 2023

ZONING BOARD OF APPEALS

25 Sybil's Crossing
Kent Lakes, NY 10512
Agenda May 15th 2023

NOTICE IS HEREBY GIVEN that the Zoning Board of Appeals of the Town of Kent will hold a Public Hearing on Monday, May 15th, 2023 at the Kent Town Hall, 25 Sybil's Crossing, Kent Lakes, NY at 7:30 p.m. to review the following applications

1. Ryan Connor
2765 Old Route 301
Carmel NY 10512

ZBA-23-012 – Area variance for 16 ft.side yard to reconstruct 24 x 24 shed. Tax Map 31.15-1-8

2. Julia Vishnepolsky = held over to June
69 Clubhouse Dr.
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(Adjourned to June)

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3. Biaggio & Janice Conti
13 Larchmont
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ZBA-23-014 Area Variance for rear yard 19'ft. 6" inch setback for a shed.
Tax Map# 33.5-1-77 & 78

The Zoning Board of Appeals will entertain any other business, which is properly presented to the Board.

SITE INSPECTIONS ARE CONDUCTED ON THE 2nd. SUNDAY OF THE MONTH.
BETWEEN 9:00 AM AND 10:00 AM

CC: Town Clerk
Town Board
Zoning Board of Appeals Members
Planning Board Clerk
Wm. Walters, Building Inspector