

TOWN OF KENT

ZONING BOARD OF APPEALS

February 23, 2022

FINAL ADOPTED ZONING BOARD OF APPEALS MINUTES

The Zoning Board of Appeals of the Town of Kent held a Virtual Zoom/Public Hearing from their homes in Kent, New York on **Monday, February 23, 2022**. The meeting was called to order at **7:30 P.M** by Mr. Gordon Moccio, the Zoning Board of Appeals Chairman. After due notice, the following members participated:

Present:

- Mr. Gordon Moccio, Chairman
- Mr. Ronald Hansen, Vice Chairman
- Mr. Joseph Greico
- Mr. Brett Harrison
- Mr. Travis Hunt
- Mr. Bill Walters, Building Inspector

Mr. Moccio opened the meeting by leading everyone in reciting the Pledge of Allegiance.

NEW BUSINESS:

1.
- Ilidio Bastro
- 11 Marshall Drive
- Kent, NY 10512

The applicant requested a variance for a Shed – 38’ft Rear 16’ft. Side – ZBA 22-04
TM: 11.15-1-34

Mr. Bastro participated in the meeting and explained that he installed a shed in the rear of his property and it is 4’ on one side and 12’ on the other. Mr. Bastro wanted to legalize it.

Mr. Hansen asked if the green cards had been returned and Mr. Bastro said he had submitted them to the Building Department.

There were no objections to granting this variance, and Mr. Moccio asked for a motion to grant the request for the variance noted above. The motion was made by Mr. Harrison and seconded by Mr. Hansen. Following were the roll call votes:

Mr. Gordon Moccio, Chairman	-	<u>Aye</u>
Mr. Ronald Hansen, Sr., Vice Chairman	-	<u>Aye</u>
Mr. Joseph Greico	-	<u>Aye</u>
Mr. Brett Harrison	-	<u>Aye</u>
Mr. Travis Hunt	-	<u>Aye</u>

The motion carried.

2.
- Richard Gesualdi
- 21 Deer Run Court
- Kent, NY 10512

The applicant requested a variance for a patio with two retaining walls. 49’2” Rear yard variance and a 46’6: side yard variance for a fire pit. ZBA 22-005; TM: 21.13-1-45

Mr. Gesualdi advised the Zoning Board that he hired a contractor to build a patio and asked him to get the building permits and variances. The contractor said that permits were not required because it was a patio and regulations were not followed. Two walls were in excess of the 36” height limit and Mr. Gesualdi was requesting a variance for those two walls.

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A neighbor, Tracey Kane of 37 Nimham Road, asked to be heard. Ms. Kane said she had concerns because she had removed trees near the property line and was going to replace them in the spring and worried that the fire pit would affect the trees. The trees were removed in the summer of 2021. The fire pit had been used for the past four years and tree branches above it had been trimmed. Mr. Hansen asked if the trees were affected and Ms. Kane said because the trees were dead, she could not tell whether the fire pit had affected them. Ms. Kane said that arborvitae would be replacing the trees. Mr. Moccio said that the fire pit was enclosed by a stone enclosure and that he did not see that it would be an issue because the heat would go up and not side to side. Mr. Harrison commented that Ms. Kane would be moving the trees further back from the property line. Mr. Moccio said that Ms. Kane knew the fire pit had been there for several years. Ms. Kane said that she was not aware of the proximity to her property until the trees were removed. Mr. Hansen said that the fire pit was not near her property and did not see why Ms. Kane was concerned. Ms. Kane said she was also concerned about the privacy and that she also had a small child and was concerned for his safety. Mr. Hansen said that the Board wanted everyone to enjoy their property and that because the dead trees never caught fire so the new plantings would also not be impacted and would provide privacy. Mr. Gesualdi said he was also going to install a stockade fence around the fire pit.

Mr. Moccio asked for a motion to grant the request for the variance noted above. The motion was made by Mr. Hansen and seconded by Mr. Harrison. Following were the roll call votes:

Mr. Gordon Moccio, Chairman	-	<u>Aye</u>
Mr. Ronald Hansen, Sr., Vice Chairman	-	<u>Aye</u>
Mr. Joseph Greico	-	<u>Aye</u>
Mr. Brett Harrison	-	<u>Aye</u>
Mr. Travis Hunt	-	<u>Aye</u>

The motion carried.

3. Braulio Aponte
614 Ludingtonville Road
Kent, NY 10512

The applicant requested a 22.3 ft. Rear & 11 ft. Side variance for a gazebo. ZBA-22-06; TM: 12.-2-24.

Mr., Aponte applied for a variance for a 10' x 12' hard top gazebo built near his pool.

Mr. Moccio asked for a motion to grant the request for the variance noted above. The motion was made by Mr. Harrison and seconded by Mr. Hunt. Following were the roll call votes:

Mr. Gordon Moccio, Chairman	-	<u>Aye</u>
Mr. Ronald Hansen, Sr., Vice Chairman	-	<u>Aye</u>
Mr. Joseph Greico	-	<u>Aye</u>
Mr. Brett Harrison	-	<u>Aye</u>
Mr. Travis Hunt	-	<u>Aye</u>

The motion carried.

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4. Carmen Polonia
65 Robin Drive
Kent, NY 10512

The applicant requested a variance for an accessory apartment – ZBA-22-02; TM: 44.-5-1-27.

Ms. Polonia asked for a variance to have an apartment built for her mother downstairs in her residence and wants to add an additional bedroom and living area in her garage for her mother’s privacy. Mr. Hansen asked how long Ms. Polonia had owned the home and she said she had owned it for four years and was advised that she had to wait four years before applying for this variance. Mr. Hansen said that she was correct. Mr. Hansen asked Ms. Polonia if the house would always be owner-occupied and Ms. Polonia said that it would be owner-occupied. Mr. Hansen asked if there was a separate entrance and, if so, where it was. Ms. Polonia said there was a separate entrance in the rear of the house and one going from the upstairs to the downstairs area. Mr. Hansen asked how large the apartment would be and was told it would be approximately 750 to 800 square feet. Mr. Hansen asked that a notation be made on the application that the permit for the accessory apartment must be renewed every five years and Mr. Moccio agreed to do that.

Mr. Moccio asked for a motion to grant the request for the variance noted above. The motion was made by Mr. Greico and seconded by Mr. Harrison. Following were the roll call votes:

Mr. Gordon Moccio, Chairman	-	<u>Aye</u>
Mr. Ronald Hansen, Sr., Vice Chairman	-	<u>Aye</u>
Mr. Joseph Greico	-	<u>Aye</u>
Mr. Brett Harrison	-	<u>Aye</u>
Mr. Travis Hunt	-	<u>Aye</u>

The motion carried.

5. Madeline White/Tristan Vernon
Horsepound Road
Kent, NY 10512

Request variance for road frontage for 48.57 ft. for a sub-division that was approved in 2001.
ZBA-22-07. TM: 33-1-58.2.

Mr. Smith, of Shilling and Smith Law Offices in Carmel, represented the applicants. Mr. Smith advised the Zoning Board of Appeals that this property consists of 40 acres in the R-40 residential one-acre zone in the Town of Kent. The variance is to request a road frontage variance. The code requires 100’ of road frontage, this property provides 51.43 feet, and the applicant was seeking a 48.57 feet area variance. Ms. White and her project engineer, Mr. Jack Karell, also were on the call. The lot was created in 2001 in a sub-division approved by the Kent Planning Board and filed in the Putnam County Clerk’s office on 12/14/2001. This lot does not have the required road frontage, but in all other respects complies with the dimensions of the R-40 zone. The applicant has been in contract since 11/2020 to purchase this parcel and seeking an area variance. There are 5 criteria that must be balanced in order to grant an area variance, which are as follows:

1. Will the variance cause an adverse change to the neighborhood?

There will be no negative impact to the neighborhood. The applicant will seek a residential use in a residential zone and, other than road frontage, the lot complies with the requirements of the R-40 1 acre zone – this property is just under 40 acres.

2. Will the variance cause an adverse impact to the surrounding environmental conditions?

There will be no adverse on the surrounding environment and there will be no increase in population density. At the time the lot was approved the proposed house was situated to not cause any adverse impacts to the environment.

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3. Is the variance substantial?

This is not a substantial variance. The town envisioned 50' road frontage as the standard in Section 77-29 and requires 100' in the R-40 zone. Since the applicant proposes a residential use in a residential zone, therefore the variance is not substantial.

4. Can the need for the variance be obviated?

The variance may not be obviated. If the variance were not granted the lot would be rendered land-locked. The lot received municipal approvals in 2001.

5. Was the difficulty self-created

The applicants have been in contract since 11/20 and the lot was approved and filed with the As previously mentioned, the lot was approved by the Planning Board in 2001 and filed with the Putnam County Clerk's office in 2001. The applicants absolutely did not create the difficulty with this lot.

Mr. Smith mentioned the following important facts

The lot is on a legal, filed, sub-division town map. NY State Town Law Section 277-7 along with Town of Kent Code Section 66A-34 allows for a waiver of regulations in sub-divisions. This lot was legally created at the time; a waiver was requested and denied. Section 66A-7 of the Code states that each lot created pursuant to the sub-division chapter shall be defined as a buildable lot herein, which required Board of Health approval, which was recently obtained. Denying the variance would render the property land-locked and may constitute a taking. When the lot was created, entrance was envisioned through a 50' right-of-way and is the preferred method. The entrance via Horsepound Road is already there, the entrance from Nichols Street is completely undeveloped. When the lot was approved, the proposed location of the house was nearer to the right-of-way and appears to be due to significant environmental considerations. If the entrance went through Nichols Street there would be tree removal, potential blasting, moving of watercourses, impacts to the neighborhood, increased impervious coverage and driveway length.

Mr. Moccio asked Mr. Karell for details pertaining to the Board of Health approvals. Mr. Karell noted that the Board of Health approvals were for the construction of a five-bedroom house. The house and septic system are situated in the same areas as approved in 2001 on the sub-division plat.

Mr. Hansen asked who owns the right-of-way property in question. Mr. Karell said it was owned by the original developer in 2001 and is now owned by New York City, who purchased that lot. Mr. Hansen said that he agreed that in this case he would have no objection to granting the variance.

Mr. Moccio asked for a motion to grant the request for the variance noted above. The motion was made by Mr. Harrison and seconded by Mr. Hansen.

Mr. Gordon Moccio, Chairman	-	<u>Aye</u>
Mr. Ronald Hansen, Sr., Vice Chairman	-	<u>Aye</u>
Mr. Joseph Greico	-	<u>Aye</u>
Mr. Brett Harrison	-	<u>Aye</u>
Mr. Travis Hunt	-	<u>Aye</u>

The motion carried.

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Mr. Moccio asked for a motion to adjourn the meeting at 08:30 PM. The motion was made by Mr. Hansen and seconded by Mr. Harrison. Following were the roll call votes:

Mr. Gordon Moccio, Chairman	-	<u>Aye</u>
Mr. Ronald Hansen, Sr., Vice Chairman	-	<u>Aye</u>
Mr. Joseph Greico	-	<u>Aye</u>
Mr. Brett Harrison	-	<u>Aye</u>
Mr. Travis Hunt	-	<u>Aye</u>

The motion carried.

Cordially Submitted,


Vera Patterson

CC:

Town Clerk
Town Board
Planning Board
Zoning Board
Building Dept. Clerk
William Walters, Building Inspector

ZONING BOARD OF APPEALS

25 Sybil's Crossing
Kent Lakes, NY 10512
Agenda February 2022

NOTICE IS HEREBY GIVEN that the Zoning Board of Appeals of the Town of Kent will hold a Public Hearing on **Wednesday, February 23, 2022 at 7:30 PM VIA ZOOM**. The meeting will be televised live on the Town of Kent cable channel as well as live-streamed on YouTube. The public can participate via ZOOM. Please identify yourself when participating just as you would if you came to the microphone during a regular meeting. Thank you for your cooperation. The details are as follows:

Topic: Town of Kent, N.Y. Zoning Board of Appeals Meeting
Time: February 23, 2022 07:30 PM Eastern Time (US and Canada)
Join Zoom Meeting

<https://us02web.zoom.us/j/5877083251>
Meeting ID: 587 708 3251

One tap mobile
+19292056099,,5877083251# US (New York)
Dial by your location:

+1 929 205 6099 US (New York)
Meeting ID: 587 708 3251

Find your local number: <https://us02web.zoom.us/u/kH6X5CXoW>

To view the video live on YouTube click the link below. To make a public comment, please sign in to a Gmail account on YouTube.

<https://www.youtube.com/watch?v=L2mrLNH3I2Q&feature=youtu.be>

The following applications will be reviewed:

1. Ilidio Bastro – 11 Marshall Dr. – TM# 11.15-1-34
Variance for Shed – 38’ft Rear 16’ft. Side – ZBA 22-04
2. Richard Gesualdi – 21 Deer Run Crt. - TM# 21.13-1-45
Variance for patio with two retaining walls – 49.2 Ft. Rear 4ft.6 Side. with a fire pit - ZBA-22-005
3. Braulio Aponte – 614 Ludingtonville Rd. – TM# 12.-2-24
Variance for Gazebo – 22.3 ft. Rear & 11 ft. Side – ZBA-22-06
4. Carmen Polonia – 65 Robin Dr. – TM# 44.5-1-27
Variance for Accessory Apartment – ZBA-22-02

5. White-Vernon - Horsepound Road - TM: 33.-1-58.2
Request variance for road frontage for 48.57 ft. for a sub-division that was approved in 2001. – ZBA-22-07

SITE INSPECTIONS ARE CONDUCTED THE SECOND SUNDAY OF THE MONTH

CC: Town Clerk
Town Board
Zoning Board of Appeals Members
Planning Board Clerk