

**Town of Kent Zoning Board of Appeals Minutes
November 21, 2016**

Approved: December 19, 2016

**TOWN OF KENT
ZONING BOARD OF APPEALS
November 21, 2016**

The Zoning Board of Appeals of the Town of Kent held a Public Hearing at the Kent Town Hall, 25 Sybil's Crossing, Kent Lakes, New York on **Monday, November 21, 2016**. The meeting was called to order with the salute to the flag at **7:30 P.M.** After due notice, the following members were present:

Present: Mr. Bob Rogers, Chairman
Mr. Bob Bradley
Ms. Nina Gerosa
Mr. Bob Phillips
Mr. Bill Walters, Building Inspector

HOLDOVERS:

1. **Rolando Villa, 546 North Main Street, Brewster, NY 10509; TM: 33.56-1**

Ms. Villa requested a 6' front variance for a building overhang over the front door on a residential building in a commercial district. The location is 494 Route 52, Tax Map # 33.56-1-11. Ms. Gladys Villa attended the meeting and advised the Zoning Board that she had applied for a building permit and that an inspection had been conducted pertaining to a shed on her property and that Mr. Walters would inspect the addition in the rear of the building on November 22, 2016.

Mr. Walters spoke and said that the permit for the rear laundry room had been applied for and that the Kent Town Court was awaiting the decision from the Zoning Board on the variance. The overhang for the front door variance is also good. A pending permit for a shed had been satisfied, so any old permits have also been approved. There are two variances awaiting approval:

- The laundry room; and
- The front door overhang

Mr. Rogers asked for a motion to grant the variance for a 6' front yard variance for the 30' setback to allow the applicant to construct a front door overhang. The motion was made by Mr. Bradley and seconded by Ms. Gerosa. The roll call vote was as follows:

Mr. Bob Rogers, Chairman	-	<u>Aye</u>
Mr. Bob Bradley	-	<u>Aye</u>
Ms. Nina Gerosa	-	<u>Aye</u>
Mr. Bob Phillips	-	<u>Aye</u>

The motion carried.

Mr. Rogers asked for a motion to grant the variance for 2' side yard variance on the left side to legitimize the existing laundry room. The motion was made by Mr. Bradley and seconded by Mr. Phillips. The roll call vote was as follows:

Mr. Bob Rogers, Chairman	-	<u>Aye</u>
Mr. Bob Bradley	-	<u>Aye</u>
Ms. Nina Gerosa	-	<u>Aye</u>
Mr. Bob Phillips	-	<u>Aye</u>

The motion carried.

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2. **O'Mara Realty, 73 Fairfield Drive, Patterson, NY 12563; TM: 31.9-1-6**

Mr. Patrick O'Mara requested a 1,891 square foot variance needed for 80,000 square foot zone (has 78,109) and 40' road frontage for 250' zone (has 210). Location is Lhasa Court. Tax Map # 31.9-1-6. Mr. O'Mara said he had received Board of Health approval on this property. Mr. Bradley asked if anything had changed since this was before the ZBA previously. He said that an additional house had been taken off of the plans, but that nothing else had changed. This was just for a renewal of the previous variance.

Mr. Rogers asked for a motion to grant renew the variance for an 1,891 square foot variance for one year according to the Kent Town Code. Mr. Bradley said that he would look into the Code to see if variances could be granted longer than one year. The motion was made by Mr. Bradley and seconded by Ms. Gerosa. The roll call vote was as follows:

Mr. Bob Rogers, Chairman	-	<u>Aye</u>
Mr. Bob Bradley	-	<u>Aye</u>
Ms. Nina Gerosa	-	<u>Aye</u>
Mr. Bob Phillips	-	<u>Aye</u>

The motion carried.

3. **O'Mara Realty, 73 Fairfield Drive, Patterson, NY 12563; TM: 42.7-1-17**

Requests 148' road frontage in a zoned 250' road frontage, (has 102). Location is Peekskill Hollow Road. Tax Map # 42.7-1-17. Mr. O'Mara also received Board of Health approval for this property and he was requesting renewal of a variance granted previously. Mr. Rogers asked for a motion to grant renewal of the variance for an 1,891 square foot variance for one year, according to the Kent Town Code. Mr. Bradley said that he would look into the Code to see if variances could be granted for a period longer than one year. The motion was made by Mr. Bradley and seconded by Ms. Gerosa.

The roll call vote was as follows:

Mr. Bob Rogers, Chairman	-	<u>Aye</u>
Mr. Bob Bradley	-	<u>Aye</u>
Ms. Nina Gerosa	-	<u>Aye</u>
Mr. Bob Phillips	-	<u>Aye</u>

The motion carried.

NEW BUSINESS:

1. **O'Mara Realty, 73 Fairfield Drive, Patterson, NY 12563; TM: 10.20-1-1**

Mr. Patrick O'Mara requested a 1,891 square foot variance which was needed for 80,000 square foot zone (has 78,109) and a 40' road frontage variance for a 250' zone (has 210). Location is 164 Nimham Road. Tax Map # 10.-20-1-1.

Mr. Rogers advised Mr. O'Mara that when the site inspection was conducted the Zoning Board members noticed an old septic tank which was buried on the property and asked if that septic system was part of the proposed plan. Mr. O'Mara replied that it was and that the previous owner of the property had begun work on the property without permits. He had a well drilled, put in a septic system and part of a foundation. Mr. O'Mara obtained Board of Health approval for this property on October 21, 2016. This property consists of two lots which were merged by the previous owner. There were several approvals dating back to 2003.

Mr. Bradley quoted **Article 16 Section 77-57 Powers & Duties Section d.** of the Zoning Board of Appeals which states: **"Imposition of Conditions"**. "The Board of Appeals shall in the granting of both use and area variances have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property where the period of time shall be in effect". Ms. Gerosa argued that imposing additional conditions could further restrict and shorten the length of time you are granting the variance. Mr. Bradley said that he felt that the article he quoted gives the Zoning Board the right to change the period of time the variance would be in effect. Mr. Rogers agreed with Ms. Gerosa's interpretation of this Article and said that he felt that you could limit the variance time, not expand it. Mr. Bradley said that he felt it was unreasonable to expect anyone to

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completely build a house in one year. Mr. O'Mara said that in his case he could possibly construct two houses, but not three. Mr. Rogers said that the Zoning Board would discuss extending the variance from one to two years with the ZBA attorney.

Mr. Rogers asked for a motion to grant the variance requested for Nimham Road. The motion was made by Mr. Bradley and seconded by Ms. Gerosa. The roll call vote was as follows:

Mr. Bob Rogers, Chairman	-	<u>Aye</u>
Mr. Bob Bradley	-	<u>Aye</u>
Ms. Nina Gerosa	-	<u>Aye</u>
Mr. Bob Phillips	-	<u>Aye</u>

The motion carried.

2. **Eric Peters, 5 Princeton Road, Kent, NY 10512; TM: 22.73-1-61**

Mr. Peters requested a 6" front yard variance for a shed/garage.

Mr. Rogers said that Mr. Peters only needed a 1' front yard and 3' side yard variance. Mr. Bradley said that a 14' front yard variance and a 1' side yard variance is needed and not what Mr. Rogers thought. Mr. Rogers said that the Zoning Board did not usually grant front yard variances for sheds or garages and if they granted this variance to him it would be setting a precedent and it would change the character of the neighborhood. Mr. Bradley said that the lot is under-sized and recommended that he build this structure somewhere else on the property. This matter was held over until the December meeting.

3. **Families With Dignity, Inc., 56 Dean Road, Kent, NY 10512; TM: 10.2-10.2**

Mr. Scott Frey requested a variance for the front yard and width for a pre-existing flag lot for 200 feet. This project was before the Planning Board for an erosion control plan, who advised him to go to the Zoning Board for a variance.

Mr. Rogers asked about the original lot which was part of the previously approved sub-division known as Dean Road Manor. Mr. Frey said that the original owner were negotiating with the DEP who wanted to purchase the property and applied for a lot-line adjustment and that this never happened. Mr. Frey said that he was advised by the Planning Board engineer that he needed to apply for a road frontage variance because he needed 250' and he has only 50'. He said that the first lot does not need a variance, but the second lot does. He said that when the sub-division was approved the two properties did not need variances, but the town code has changed.

Mr. Bradley asked about another piece of property that has an existing house on it. Mr. Frey said that that property belonged to Mr. Ricotta, who owned all three pieces of property, but was selling one lot to Mr. Frey and the second to another person.

Mr. Frey said he felt that the Planning Board engineer should not have sent him to the Zoning Board. Mr. Bradley suggested that the Zoning Board meet with the Planning Board to clear up the confusion regarding this matter and that you cannot have two flag-lots next to each other and that if you are going by a 1993 sub-division plan the validity needed to be confirmed. Mr. Rogers said that previously sub-divisions needed to be completed within three years. This matter and the next one were held over pending discussions with the Planning Board to determine whether or not a variance was needed.

4. **Vincent Ricotta, 56 Dean Road, Kent, NY 10512; TM: 10.2-10.3**

Mr. Scott Frey requested a variance for the front yard and width for a pre-existing flag lot for 200 feet. This matter was also held over until December, pending further discussion with the Kent Planning Board.

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Mr. Rogers and the other board members reviewed some outstanding requests for variances.

- Mr. Moscovitz – Mr. Walters to check to see status of this matter held over from May 2016
- Ms. Gotti – Smalley Corners had horses and dogs on property in 2014. Denied without prejudice

Mr. Rogers asked for a motion to approve the minutes from the Zoning Board meeting of the October 17, 2016 meeting. The motion was made by Ms. Gerosa and seconded by Mr. Phillips. The roll call vote was as follows:

Mr. Bob Rogers, Chairman	-	<u>Aye</u>
Mr. Bob Bradley	-	<u>Aye</u>
Ms. Nina Gerosa	-	<u>Aye</u>
Mr. Bob Phillips	-	<u>Aye</u>

The motion carried.

Mr. Rogers asked for a motion to close the meeting at 9:30 PM. The motion was made by Mr. Phillips and seconded by Ms. Gerosa. The roll call vote was as follows:

Mr. Bob Rogers, Chairman	-	<u>Aye</u>
Mr. Bob Bradley	-	<u>Aye</u>
Ms. Nina Gerosa	-	<u>Aye</u>
Mr. Bob Phillips	-	<u>Aye</u>

Cordially Submitted,



Vera Patterson

CC: Town Clerk
Planning Board
Town Board
Zoning Board
William Walters, Building Inspector
Doug Holly

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ZONING BOARD OF APPEALS

**25 Sybil's Crossing
Kent Lakes, NY 10512
AGENDA**

NOTICE IS HEREBY GIVEN that the Zoning Board of Appeals of the Town of Kent will hold a Public Hearing on **Monday, November 21, 2016** at the Kent Town Hall, 25 Sybil's Crossing, Kent Lakes, NY at 7:30 p.m. to review the following applications

HOLDOVERS:

1. **Rolando Villa, 546 North Main Street, Brewster, NY 10509; TM: 33.56-1**
Requests 6' front variance for a building overhang over the front door on a residential building in a commercial district. The location is 494 Route 52, Tax Map # 33.56-1-11.
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2. **Eric Peters, 5 Princeton Road, Kent, NY 10512; TM: 22.73-1-61**
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3. **Families With Dignity, Inc., 56 Dean Road, Kent, NY 10512; TM: 10.2-10.2**
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4. **Vincent Ricotta, 56 Dean Road, Kent, NY 10512; TM: 10.2-10.3**
Requests a variance for the front yard and width for a pre-existing flag lot for 200 feet

SITE INSPECTIONS ARE THE SECOND SUNDAY OF THE MONTH.

CC: Town Clerk
Planning Board
Town Board

Zoning Board
William Walters, Building Inspector
Doug Holly