

Approved: December 21, 2015

**TOWN OF KENT  
ZONING BOARD OF APPEALS  
November 16, 2015**

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 16, 2015**. 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. Richard Wetzal, Vice Chairman  
Mr. Bob Bradley  
Ms. Nina Gerosa  
Mr. Bob Phillips  
Mr. Bill Walters, Building Inspector

**Absent:**

HOLDOVER:

1. **Joseph Bene, 10 Mount Hope Road, Mahopac, NY 10541;  
Tibet Drive, Kent, NY 10512; TM: 20-1-16**

Requested width and front setbacks, width need 168' front need 189', off **TIBET DRIVE**, Town of Kent. Tax Map #30.-20-1-16.

Mr. Bart Lansky represented the applicant. Mr. Rogers advised Mr. Lansky that Mr. Rohde, the Town's engineer, as well as the Board of Health pointed out that the easement for the septic system on the adjoining property doesn't close and that there is a problem on Schedule "C". Mr. Bradley said that he had received a telephone call from the Board of Health that the septic on the house on top on Pudding Street has failed and they are using the expansion area for their own septic system. The Board of Health will be sending a letter advising the applicant that they may not use the easement any longer. Mr. Lansky asked if this could be referred to the Planning Department and if the ZBA could grant the requested variance. Mr. Rogers said that the ZBA typically does not grant a variance to properties that are not buildable. He said that he would like to wait to see the response from the Board of Health regarding the easement before making a decision. Mr. Rogers closed the Public Hearing and said that he would write a decision, after consulting with Mr. Ron Blass of Van DeWater & Van DeWater (legal counsel to the Zoning Board) and wanted to hold the matter over until the December meeting. Mr. Lansky said that he would consult with Badey & Watson regarding resolving the survey issue. Mr. Lansky asked if he could attend the ZBA workshop on Monday, December 7, 2015 and the Zoning Board said that he could meet with them at that time.

1. **David Winters, 51 Huntington Road, Carmel, NY 10512; TM: 22.84-1-25**

Requested renewal of accessory apartment. Tax Map #: 22.84-1-25

The following violations were found at the residence on this property:

- Smoke detectors were missing
- Basement detector didn't work
- There was no fire extinguisher
- No permit for a pellet stove

Mr. Winters was not present at the meeting and Mr. Walters said he is waiting for Mr. Winters to come in to the Building Department and remedy the violations. This matter was held over until the December meeting.

2. **William Besharat, 266 Shear Hill Road, Mahopac, NY 10541;  
Marshall Drive, Kent, NY 10512; TM: 11.15-1-35**

Requested interpretation for issuing a second tax map # for two lots, created by subdivision & conveyed via one deed. Tax Map #: 11.15-1-35.

Mr. Besharat and his son-in-law attended the meeting. This property is 3.8 acres created as a subdivision consisting of 2 lots in 1958 and was approved by the Kent Planning Board and the Board of Health and filed with Putnam County on October 9, 1958 (map 846). The original owners conveyed the lots via 1 deed, but there are two legal lots and it was bought as an investment. The

owners failed to pay taxes for a few years and the county took it over. The owners eventually paid the taxes and got the property back. However, the county merged the properties and issued one tax map number to the properties. Mr. Bradley advised Mr. Basharat that the zoning in the area where these lots are situated is two acres and that lots held in the same name are merged if one lot is undersized and that the Zoning Board could not help him in separating the two lots. The title company and Mr. Shilling concurred that there were two lots. Mr. Basharat said that the County told him that, if the Kent Assessor's office agreed, they would issue a second tax map number. Mr. Basharat discussed the matter with the Kent Assessor and he advised him that he didn't know how to do that. This is why he appeared before the ZBA. Mr. Rogers told Mr. Basharat they had no authority over the Assessor's office. He also advised Mr. Basharat that one lot is 95,000 square feet and the other is 68,000 square feet and the area has been upsized and is now two acre zoning. If you hold two properties in the same name for purposes of zoning if one is sub-standard they are automatically merged. Mr. Rogers advised Mr. Basharat to go to the Planning Board and request a lot-line adjustment and make two 80,000 square foot lots and Mr. Basharat said he would do so. Mr. Bradley suggested that a decision be made that this matter was referred to the Planning Board.

3. **Joaquim Faria, 81 Salem Road, Carmel, NY 10512;**  
**36 Salem Road, Carmel, NY 10512; TM: 33.42-2-23**

Requested three-family dwelling. Tax Map #: 33.42-2-23.

Mr. Faria appeared before the Zoning Board. Mr. Rogers asked to see a survey and Mr. Faria said he did not have one. He also did not notify his neighbors that he was applying for a variance and was advised by Mr. Rogers that he needed to notify all the neighbors within 100' of their property.

Mr. Bradley said that there was no way the Zoning Board would approve a three-family dwelling on this property because there was already a cottage as well as a two-family house on it. He also said the Board of Health would not approve it either. The original title search showed that there was a garage that was converted into a cottage and a one-family house. The applicant said he needed a written statement stating that they Zoning Board would not approve making this property a three family dwelling because he was going through a divorce and was in the process of selling the property and the new owners requested it. Mr. Bradley said that there are actually two one-family dwellings and that is shown on two title searches. There was an illegal apartment in the house, which has since been removed. Mr. Bradley made a motion to deny the variance and it was seconded by Mr. Wetzel. The 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>
Mr. Rick Wetzel	-	<u>Aye</u>

Mr. Rogers asked for a motion to close the meeting at 8:30 PM. The motion was made by Mr. Bradley and seconded by Mr. Wetzel. The vote was as follows:

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

The motion carried.

Cordially Submitted,



Vera Patterson

cc: Zoning Board of Appeals Board Members  
Building Inspector  
Town Clerk  
Planning Board Secretary

**ZONING BOARD OF APPEALS**

25 Sybil's Crossing  
Kent Lakes, NY 10512

NOTICE IS HEREBY GIVEN that the Zoning Board of Appeals of the Town of Kent will hold a Public Hearing on **Monday, November 16, 2015** at the Kent Town Hall, 25 Sybil's Crossing, Kent Lakes, NY at 7:30 p.m. to review the following applications:

4. Winters, David  
51 Huntington Road  
Carmel, NY 10512

Requesting renewal of accessory apartment. Tax Map #: 22.84-1-25

5. Besharat, William  
266 Shear Hill Road  
Mahopac, NY 10541

Requesting interpretation for issuing a second tax map # for two lots, created by subdivision & conveyed via one deed. Tax Map #: 11.15-1-35

6. Faria, Joaquim  
81 Salem Road  
Carmel, NY 10512

Requesting three-family dwelling. Tax Map #: 33.42-2-23

**HOLDOVERS:**

2. Bene, Joseph  
10 Mount Hope Road  
Mahopac, New York 10541

Requesting width and front setbacks, width need 168' front need 189', off **TIBET DRIVE**, Town of Kent. Tax Map #30.-20-1-16.

Approve September and October Minutes

-----  
**SITE INSPECTIONS ARE THE SECOND SUNDAY OF THE MONTH.**

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

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