

**TOWN OF KENT  
ZONING BOARD OF APPEALS  
July 17, 2017**

**FINAL MINUTES**

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, July 17, 2017**. The meeting was called to order at **7:30 P.M** by Mr. Rogers, the ZBA Chairman. After due notice, the following members were present:

**Present:**

- Mr. Bob Rogers, Chairman
- Mr. Bob Bradley, Vice Chairman
- Dan Clayton
- Mr. Bob Phillips
- Mr. Bill Walters, Building Inspector

**Absent:**

- Ms. Nina Gerosa

**HOLDOVER:**

**1. Vincent Sciuлло (Dogward Bound Kennel), 461 Richardsville Road, Carmel, NY; TM: 12-1-1**

Requested a Use Variance to build a new building, to be used as a kennel. Previous variances were granted in 1966 for use as a kennel. Tax Map: 36-12-1-1.

Mr. Siullo was accompanied by Charles Maye, President of Maye Associates, who is the engineer for this project. The property is a 14.6 acre site and is zoned R-80, but in 1966 a variance was granted to operate a kennel on this property. There is a kennel attached to the residence and an existing shed as well as a concrete pad. There are no wetlands on the site. A shed will be removed, a chain link fence will be relocated and some trees with pavement cutting will be removed. Once the removals are complete a two-story building is proposed, = the first floor will be approximately 2,800 square feet and the second floor will be 972 square feet. One handicapped parking space will be on the site along with three other parking spaces. Stormwater runoff will be collected in sistrerns on each side of the building for irrigation, firefighting or drinking water if boiled down. There will not be much grading on the property. The amount of disturbance will be 14,761 feet and a silt fence will be used and restoration of the site will be done. The applicant has submitted plans to the Planning Board for an erosion control permit. A NOI will be sent to the DEC. There will be a space on the side of the building for the applicant's RV, which will be 14' high. Mr. Sciuлло asked that the existing variance be transferred to the new structure. Mr. Rogers asked if the building would be used for anything other than as a kennel and Mr. Sciuлло said no. Mr. Bradley said that original variance had a note that there were 17 acres and he asked what happened to cause the discrepancy of acreage and Mr. Sciuлло said that he didn't know. Mr. Bradley said that the maximum of dogs allowed was 65 and Mr. Sciuлло said that he would never exceed that.

Mr. Rogers asked for a motion to grant the requested variance. The motion was made by Mr. Bradley and seconded by Mr. Phillips. The roll call votes were as follows:

- Mr. Bob Rogers, Chairman - Aye
- Mr. Bob Bradley, Vice Chairman - Aye
- Mr. Dan Clayton - Aye
- Ms. Nina Gerosa - Absent
- Mr. Bob Phillips - Aye

The motion carried.

**2. Kent Investors, P. O. Box 177, Somers, NY; Property located at 301 Rte. 52, Carmel, NY; TM: 44.6-1-7**

- Mr. Bob Rogers, Chairman - Aye
- Mr. Bob Bradley, Vice Chairman - Aye
- Mr. Dan Clayton - Aye
- Ms. Nina Gerosa - Absent
- Mr. Bob Phillips - Aye

The motion carried.

Mr. Walters asked Mr. Rogers if the variance covered any other industrial uses on the property because there are other industrial use projects being conducted on the property. Mr. Rogers said that the variance granted was limited to the concrete batch plant.

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3. **Kent Investors, P. O. Box 177, Somers, NY;  
Property located at 301 Rte. 52, Carmel, NY; TM: 44.6-1-7**

Requested an interpretation of "Reversal of Building Inspector's determination of May 2, 2017 and May 18, 2017". Property address is: 301 Route 52, Carmel, NY; Tax Map: 44.6-1-7,

Mr. Martabano, Kent Investor's attorney, represented the applicant.

Mr. Rogers reminded the audience that the appeal before the ZBA was a very specific legal question about the character of a variance granted in 1948, specifically whether it was a "Use" or an "Area variance". The ZBA's Legal counsel was contacted and a "Memorandum of Law" concerning this matter was provided to the ZBA. The attorney was asked to put it in the form of a possible decision.. The ZBA members have reviewed all the submitted material prior to the meeting. Mr. Rogers acknowledged that the community had concerns about environmental and quality of life issues and that they were important, but not within the purvue of the Zoning Board of Appeals at this time. Mr. Rogers circulated the Memorandum of Law prior to the meeting to the other ZBA members and they have reviewed it. Mr. Rogers summarized the Memorandum of Law. A public hearing was conducted on June 19<sup>th</sup>, 2017 and additional material was submitted in writing prior to the July workshop meeting. Mr. Rogers said that a section pertaining to the character of the variance needed clarification and he had prepared a paragraph to be placed in the decision clarifying that point, which he distributed to the members of the Board. Mr. Clayton asked Mr. Rogers to provide more details pertaining to the proposed change. Mr. Rogers said that the language of the Zoning Ordinance of 1937 is different from the ones used today. The structure of the ordinances in 1937 began as a prohibition and went on to say should certain criteria were met some uses would be allowed. The 1948 variance allowed for the modification of the 1937 variance by alteration of the allowable criteria. Mr. Bradley said that the 1948 variance required the plant be located 300' off the road and agreed with the 2005 Consent Agreement signifying that everything on the property was legal. The ZBA concluded that the 1948 variance was a "Use Variance" that runs with the land. The ZBA granted the appeal of Kent Investors, negated the Building Inspector's determinations of May 2, 2017 and May 18, 2017, and a Consent Agreement. They found that all prior appeals were academic and concluded that the Building Inspector is empowered to re-issue a building permit for the premises. Mr. Rogers asked for a motion to accept the decision prepared by the ZBA's legal counsel with one sentence discussed earlier modified. The motion was made by Mr. Bradley and seconded by Mr. Clayton. The roll call votes were as follows:

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

The motion carried.

Mr. Walters asked Mr. Rogers if the variance covered any other industrial uses on the property because there are other industrial use projects being conducted on the property. Mr. Rogers said that the variance granted was limited to the concrete batch plant.

**NEW BUSINESS:**

1. **John Kelley, 15 Saw Mill Road, Carmel, NY; TM: 33.27-2-25**

Requested an 18' rear variance for a pre-existing 10' x 8' shed. Tax Map: 33.27-2-25.

Mr. Kelley, the applicant, attended the meeting. Mr. Rogers stated that the applicant had 2' between the back of the shed and property line and that usually 3' was required and that no storage behind the shed was allowed. Mr. Rogers asked for a motion to grant the variance. The motion was made by Mr. Phillips and seconded by Mr. Bradley. The roll call votes were as follows:

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

The motion carried.

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**2. Thomas Joy, 43 Rosedale Road, Carmel, NY; TM: 33.50-1-26**

Requested a 6'' variance for a proposed second story addition. Tax Map: 33.50-1-26.

Mr. Joy said that he needs 2.5' rather than 6 and that no structural changes will be made to the foundation. There is a second story with a bedroom already there, but the roof slants on both ends and they need to go up another 2.5'. The Board of Health approved the plans. Mr. Clayton asked if the neighbor's view of the lake would be impacted and Mr. Joy said that it would not. Mr. Joy said that his house is 7.5' from the property and needed to be 8' from the property line, which was why he needed this variance.

Ms. Demelillo (40 Larchmont Road) said she purchased her house in 2000 and saved money to build a second story on her residence. In 2004 she went to the Kent Building department to apply for a building permit. She was told that there was a moratorium on building in Lake Camel and could not put a second story on her house. The wells and septic systems would not allow additional building. She questions why she could not do what Mr. Joy was asking to do. Ms. Demelillo said she is surrounded by several larger homes and that, if Mr. Joy was granted his variance, the resale value of her property would be greatly affected. Mr. Walters said that Ms. Demelillo had contacted his office and that he didn't find anything in her file pertaining to her problem. Mr. Walters and Mr. Bradley recalled that there was a moratorium in 1989 which was for the entire town and only in effect until environmental constraints laws were passed. Ms/ Butler told Ms. Demelillo that she could not go before the ZBA either. Mr. Rogers said that this would not happen at this time. Mr. Rogers also advised Ms. Demelillo that Mr. Joy was not adding a second story, but was only raising the roof slightly to add more headroom.

Mr. Bradley said that the ZBA should acknowledge that the house had been a pre-existing, non-conforming structure since 1953. Mr. Rogers asked for a motion to grant a 6'' variance for the side yard and stated that the applicant may make the change in the roof line as requested. The motion was made by Mr. Bradley and seconded by Mr. Phillips. The motion was made by Mr. Phillips and seconded by Mr. Bradley. The roll call votes were as follows:

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

The motion carried.

**3. Ernesto Lopez, 56 Craft Road, Carmel, NY; TM: 33.32-1-25**

Requested a 1' side variance for a pre-existing 8' x 9' shed. Tax Map 33.32-1-25

Mr. Lopez attended the meeting. Mr. Rogers asked for a motion to grant a 1' side yard variance for a pre-existing 8' x 9' shed. The motion was made by Mr. Phillips and seconded by Mr. Clayton. The motion was made by Mr. Phillips and seconded by Mr. Bradley. The roll call votes were as follows:

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

The motion carried.

**4. Nancy Dugan, 35 Sterling Road, Carmel, NY; TM: 10.20-1-64**

Requested a 48' rear and 18' side variance for a proposed 14/ x 22/ shed. Tax Map 10.20-1-64.

Suzanne Dugan represented Nancy Dugan regarding this matter. The applicants said that they were combining two households and needed to have the shed built for storage and to have a container on the property removed. Mr. Bradley asked that a time limit of 3 months after the shed is completed be a condition of approval for this variance. The shed will be relocated and will require a 15' side yard and 48' rear yard variance.

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The motion was made by Mr. Phillips and seconded by Mr. Clayton. The roll call votes were as follows:

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

The motion carried.

**5. Michael Shaw, 20 Willow Trail Court, Carmel, NY; TM: 44.6-1-45**

Requested an 11' rear variance for a proposed three-season room addition; Tax Map: 44.6-1-5.

Mr. Shaw said that the space will not have any heat and will be built on pillars and approximately 8' off the ground with nothing underneath.

The motion was made by Mr. Bradley and seconded by Mr. Phillips. The roll call votes were as follows:

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

The motion carried.

**6. Luca Nadile, 8 Ticonderoga Road, Carmel, NY; TM: 22.79-1-22**

Requested a 16' rear variance for a pre-existing 20' x 12' shed. Tax Map: 22.79-1-22

Mr. Nadile advised the ZBA that he had personally distributed his notices in the neighbors' mailboxes.

Mr. Clayton suggested that Mr. Nadile use a dark paint so that the shed blends into the property.

Mr. Rogers asked for a motion to grant a 16' rear yard variance for a pre-existing 20' x 12' shed. The motion was made by Mr. Phillips and seconded by Mr. Bradley. The roll call votes were as follows:

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

The motion carried.

**7. Timothy Proctor, 282 Towners Road, Carmel, NY; TM: 33.51-2-2**

Requested a 6' side and 18' rear variance for a pre-existing 10' x 15' shed. Tax Map: 33.51-2-2.

Mr. Bradley noted that this property had two front yards and had a kennel on the property. Mr. Proctor said the kennel will be removed as they have sold the property and will be moving. Mr. Bradley asked if the shed could be moved to the location where the kennel is because it was in the front yard and that was not usually allowed. It also looms over the neighbor's property. Mr. Proctor said that it could not because there is a concrete slab and that he had rebuilt the shed recently because it was in disrepair. Mr. Bradley said that he was not in favor of granting this variance, but did not know what to do about it. Mr. Roger said that in this case the previous owners had built the shed. Mr. Bradley pointed out that the only time people go to the ZBA for variances for sheds was when they were selling the property and then, by granting the variance, they are rewarded. The majority of requests for variances for sheds on the agenda at the July meeting were examples of that. Mr. Proctor, however, had just rebuilt one that was previously on the site and had assumed that it was legal. Mr. Clayton reiterated that nothing was to be stored behind the shed. Mr. Proctor said all the property stored behind the shed will be removed by the time he sold the house.

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Mr. Rogers asked for a motion to grant the 6' side and 18' variances. The motion was made by Mr. Phillips and seconded by Mr. Clayton. The roll call votes were as follows:

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

The motion carried.

**8. Annamarie Monroe, 29 Longview Road, Carmel, NY; TM: 44.7-1-26**

Requested a 6' side variance for a pre-existing 10' x 10' shed. Tax Map: 44.7-1-26

Mrs. Monroe attended the meeting. Mr. Bradley stated that there were two sheds and a swimming pool on the property. Mr. Walters said that there are permits on file for the pool, one shed and the deck. The shed closest to the road is the one that requires a 6' side yard variance. Mr. Walters confirmed that the sheds are 2' away from the property line and needs a 6' side yard variance. Mrs. Monroe said that the other shed had a variance granted previously.

Mr. Bradley made a motion to grant a 6' side yard variance and it was seconded by Mr. Phillips. The roll call votes were as follows:

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

The motion carried.


**9. Approve ZBA Minutes for May and June**

The May and June minutes will be approved in August along with the July Minutes.

Mr. Rogers asked for a motion to close the meeting at 9:00 PM. The motion was made by Ms. Gerosa and seconded by Mr. Phillips. The roll call votes were as follows:

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

The motion carried.

  
Cordially Submitted,  
Vera Patterson

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

**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, July 17, 2017** at the Kent Town Hall, 25 Sybil's Crossing, Kent Lakes, NY at 7:30 p.m. to review the following applications:

1. John Kelly  
15 Saw Mill Road  
Carmel, NY 10512

Requests an 18' rear variance for a pre-existing 10' x 8' shed.  
Tax Map #33.27-2-25.

2. Thomas Joy  
43 Rosedale Road  
Carmel, NY 10512

Requests a 6' side variance for a proposed second story addition.  
Tax Map #33.50-1-26.

3. Ernesto Lopez  
56 Craft Road  
Carmel, NY 10512

Requests a 1' side variance for a pre-existing 8' x 9' shed.  
Tax Map #33.32-1-25.

4. Nancy Dugan  
35 Sterling Road  
Carmel, NY 10512

Requests 48' rear and 18' side variances for a proposed 14' x 22' shed.  
Tax Map #10.20-1-64.

5. Michael Shaw  
20 Willow Trail Court  
Carmel, NY 10512

Requests an 11' rear variance for a proposed three-season room addition.  
Tax Map #44.6-1-45.

6. Luca Nadile  
8 Ticonderoga Road  
Carmel, NY 10512

Requests a 16' rear variance for a pre-existing 20' x 12' shed.  
Tax Map #22.79-1-22.

7. Timothy Proctor  
282 Towners Road  
Carmel, NY 10512

Requests a 6' side & 18' rear variance for a pre-existing 10' x 15' shed.  
Tax Map # 33.51-2-2

8. Annamaria Monroe  
29 Longview Road  
Carmel, NY 10512

Request an 8' side variance for a pre-existing 10' x 10' shed.  
Tax Map #44.7-1-26

7. Approve ZBA Minutes for May and June 2017

**HOLDOVERS:**

1. Vincent Sciuлло (Dogward Bound)  
461 Richardsville Road  
Carmel, NY 10512

Requests a Use Variance to build a new Building, to be used as a kennel. Previous Variance granted in 1960 for use as a kennel  
Tax Map #30.12-1-1

2. Kent Investors  
P. O. Box 177  
Somers, NY 10589

Requests interpretation of "Reversal of Building Inspector's determination of May 2, 2017 & May 18, 2017"  
(Property address is: 301 Rte 52)  
Tax Map #44.6-1-7

CC: Town Clerk  
Building Inspector  
Zoning Board

SITE INSPECTIONS ARE THE SECOND SUNDAY OF THE MONTH

Town Board  
Planning Board  
Rich Harris