

The Kent Town Board held a joint meeting with the Planning Board and its consultants on Monday, April 19, 2021 at 7:00 p.m. via Zoom to discuss the proposed Soil Removal Law. To see the full meeting visit the Town of Kent's website at www.townofkentny.gov under Video's on Demand.

Present: Supervisor Fleming, Councilpersons, Huestis, Denbaum, McGlasson and Ruthven.

Also Present: Town Clerk Cappelli, Town Counsel Spillane, Building Inspector Walters, Planning Board Chairman Phil Tolmach, Planning Board Members Hugo German, Stephen Wilhelm, Simon Carey, Giancarlo Gattucci, Dennis Lowes, Planning Board Consultants John Andrews, Bruce Barber, and Liz Axelson.

Salute to the Flag

The meeting began with the Pledge of Allegiance.

They began the discussion with adding the word mining to Chapter 63 or the option of possibly rewriting Chapter 63 centering it on residential development without mining, mining being a chapter by itself. Discussion took place on what the town could actually control relating to mining and the implementation of a soil mining overlay district which meant if a project intends to do some mining they would have to come to the town board to establish that district on their property and a reclamation plan and possibly imposing some timing and phasing. Questions were raised about liability and implementing phasing limiting what could be done while completing a site plan. Everyone was in agreement that mining was not something the town wants in any district from past experiences and was a reason the Town Code Section Soil Removal was entertained. It appears the town does not have much control over mining operations, and wants to change town code to dictate how much soil can actually be removed to complete the site plan. Sections of code would need to be changed to not get to the DEC threshold. Discussion took place on the IOC zone which are extremely environmentally constrained with wetlands, steep slopes and rock and no provisions to account for that in site plan development. A suggestion was made that environmentally sensitive land be possibly identified in the Zoning Code like in Subdivision discounting them creating a buildable area which would reduce the impact to these locations. The thought to move toward a code that allows commercial industrial development to ease the burden of taxes but not at the expense of resident's quality of life with a phase approach which limits the amount of rock to be removed. John Andrews believed a code could be crafted that could balance the need for industrial development with the protection of resources, it was done with wetlands, steep slopes, soil and erosion control. This has to be approached the same. Bruce Barber used an example to determine net buildable area with environmental constraints and thresholds. It was discussed that the town has some control but needs back up by setting limits on the amount of material to obtain a site plan. Liz wondered if an idea is to have a provision when you're doing your cut and fill that you can't take away a certain level of cut, you need to maintain a balance on site, the design would have to bear that in mind. Bruce questioned if that would result in preservation of natural resources. It would remove the incentive of creating a rock processing program. Councilman Ruthven questioned how they can sell rock if we do not allow mining, there should be law enforcement. John Andrews explained you do not allow mining but allow site plan approval which incorporates removal of rock and grading plan to facilitate development, they probably identified they have access material and then obtain a DEC permit. They are circumventing the concept of mining in the pursuit of a site development. Stephen Wilhelm replied we do not have anything that stops them from doing that. A discussion took place on possible regulations that can be initiated to create a balance and threshold possibly on the average elevation of a site in the IOC zones. Councilman Ruthven asked how these ideas are put into a document. Liz was opened to with the assistance of Town Counsel and the professionals of creating town code. John Andrews thought the document provided by Councilman Ruthven could be remodeled, thresholds and explanatory material added to it. The consultants agreed they would each send their proposal and time frame to the Supervisor. A discussion took place about crafting code for blasting provisions and hammering. A concern was raised by resident Mr. Neff concerning the water quality from blasting. Building Inspector suggested looking at Chapter 38 pertaining to Blasting. Eileen Civitillo, resident of Kent asked about the Planning Boards comments concerning the substantial areas of steep slopes and rock outcropping within the IOC will of necessity consider substantial land disturbance including mining and soil removal will be required, Bruce and Liz also agreed. She asked if we need to revisit the area of Zoning that we designated IOC, maybe the IOC is best designated in a flat area. Henry Boyd, Kent resident and well driller sent a letter recommending that blasting be stopped within the Town of Kent. He said blasting is cheap, hammering is expensive, he explained a process that you drill a hole and add a chemical that looks like cement that cracks rock. He said it is expensive and believes

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developers will not come in to remove rock. Kathy Doherty asked how the DEC gave the bus garage a permit when it was not a permitted use, there were violations as well maybe the fines should be revisited and based upon the size of the project. Building Inspector Walters agreed that the fines need to be changed. Eileen Civitillo said Kent Materials had unmediated infractions and questioned how the property was sold. Sue Kotzur hoped to see something in late May early June, she thought it is on the right track.

The meeting adjourned at 9:15 p.m.

Respectfully submitted,

Yolanda D. Cappelli

Town Clerk