

Approved: May 15, 2023

**TOWN OF KENT
ZONING BOARD OF APPEALS
FINAL ADOPTED MINUTES
APRIL 17, 2023**

The Zoning Board of Appeals of the Town of Kent held their April 17, 2023 meeting at the Kent Town Hall. Mr. Gordon Moccio called the meeting to order at 7:30 P.M. Mr. Moccio asked that the audience and ZBA join him in the Pledge of Allegiance. Mr. Moccio asked that applicants come forward to the podium, sign the sheet provided for guests' signature and submit the green postal cards to the ZBA Chairman when their names were called.

Present:

Mr. Gordon Moccio, Chairman
Mr. Ronald Hansen, Vice Chairman
Mr. Joseph Greico
Mr. Robert Ulich, Alternate ZBA Member
Mr. Bill Walters, Building Inspector
Mr. Andrew Wells, Alternate ZBA Member

Absent:

Mr. Travis Hunt

NOTICE IS HEREBY GIVEN that the Zoning Board of Appeals reviewed the following applications at the April 17, 2023 ZBA Meeting:

1. Frank DeEsso
41 Joseph Court
Carmel, NY 10512

ZBA-23-011 – Renew a Special Use Permit for an accessory apartment
Tax Map 33.-1-10

Mr. Joel Greenberg represented the Applicants, Mr. and Mrs. DeEsso. Mr. Greenberg advised the Zoning Board members that a Permit for this Accessory Apartment had been granted several years ago and that it has Board of Health approvals. He also displayed the layout of the apartment and a site plan, which showed where the apartment was and the location of a 3-car garage.

Mr. Greenberg described the apartment as having the following rooms as well as a small deck:

- A kitchen;
- A dining room;
- A living room;
- One bedroom;
- One bathroom; and
- A small deck on the back of the house

Mr. Moccio mentioned that he understood that there had been recent inspections of the property by the Building and the Fire Inspector. Mr. Greenberg confirmed that the inspections had been done on April 13, 2023.

Mr. Walters verified that both he and the Fire Inspector had visited the site in the afternoon on April 13, 2023 and found that everything was in order. Letters from the Fire Inspector and Bill Walters were added to the files stating that the property had passed their inspections.

Mr. Moccio then opened this application open to the public and the ZBA members.

Mr. Ulich asked if the apartment had the same footprint as the residence. Mr. Greenberg said that he believed that it was the same size and layout as the upper floor. Mr. Ulich mentioned that he thought that, according to the Town Code, an accessory apartment must be a certain percentage of the main part of a residence. Mr. Greenberg said that the permit had been granted approximately seven years ago and was in compliance at that time and that it should still be in compliance. Mr. Ulich said that he did not want to set a precedence by granting approval of the apartment at this time. Mr. Walters advised the ZBA that the permit was **not** granted seven years ago. The Permit was actually granted, by the previous Zoning Board, in 1999 and that the property was compliant at that time.

Town of Kent Zoning Board of Appeals
April 17, 2023

Mr. Moccio asked for a motion to grant the requested Special Use Permit for an Accessory Apartment. The motion was granted by Mr. Hansen and seconded by Mr. Wells. Following were the roll call votes:

Gordon Moccio, Chairman	<u>Aye</u>
Ronald Hansen, Vice Chairman	<u>Aye</u>
Joseph Greico	<u>Aye</u>
Travis Hunt	<u>Absent</u>
Robert Ulich, Alternate Member	<u>Aye</u>
Andrew Wells, Alternate Member	<u>Aye</u>

The motion carried.

2. Positive Science Center
170 Waywaywanda Court
Kent Lakes NY 10512

ZA-23-002 – Interpretation of Town Kent code 77-7(c) (5) for use of eleemosynary institute
Tax Map# 41.-1-8

Mr. Moccio introduced this item, which has been on the ZBA agenda several time in the past, and pertained to a decision made recently after consulting with Ms. Veronica McMillan, who is the Legal Counsel for the ZBA. Dr. John Rydeer is the owner of this property and has been represented by the Shilling Law firm. The applicant requested an interpretation for the property use as an eleemosynary under the Town of Kent Code. Mr. Moccio said that, after much discussion for the second time in two years with the Board members and legal counsels for the Town Board and ZBA Board, the ZBA has arrived at a decision regarding this matter. For the record, Mr. Moccio read the Decision in its entirety. A copy of the Decision is attached to these minutes. At the conclusion of the recitation of the above mentioned decision (attached) by Mr. Moccio he asked for a motion from the Zoning Board to accept the Decision as read. Mr. Hansen made the Motion and Mr. Greico seconded it.

Ms. Patterson, Recording Secretary for the Zoning Board of Appeals asked for a Roll Call Vote. Following were the results:

Gordon Moccio, Chairman	<u>Aye</u>
Ronald Hansen, Vice Chairman	<u>Aye</u>
Joseph Greico	<u>Aye</u>
Travis Hunt	<u>Absent</u>
Robert Ulich, Alternate Member	<u>Aye</u>
Andrew Wells, Alternate Member	<u>Aye</u>

The motion carried. The motion confirmed that the Motion was denied.

Mr. Moccio asked if the Minutes for the March meeting were ready to be approved at this meeting. Ms. Patterson advised the ZBA that they could be approved at the May meeting along with the April 2023 Minutes. Mr. Moccio and the Board members agreed to that.

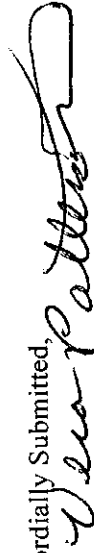
Mr. Moccio asked for a motion to adjourn the meeting at 8:00 PM. The motion was made by Mr. Wells and seconded by

Mr. Ulich. Following were the roll call votes:

Gordon Moccio, Chairman	<u>Aye</u>
Ronald Hansen, Vice Chairman	<u>Aye</u>
Joseph Greico	<u>Aye</u>
Travis Hunt	<u>Absent</u>
Robert Ulich, Alternate Member	<u>Aye</u>
Andrew Wells, Alternate Member	<u>Aye</u>

The motion carried.

Cordially Submitted,


Vera Patterson

CC: Town Clerk
Town Board
Zoning Board of Appeals Members
Planning Board Clerk
Wm. Walters, Building Inspector

ZONING BOARD OF APPEALS
25 Sybil's Crossing
Kent Lakes, NY 10512
Agenda April 17th, 2023

NOTICE IS HEREBY GIVEN that the Zoning Board of Appeals of the Town of Kent will hold a Public Hearing on **Monday April 17th, 2023** at the Kent Town Hall, 25 Sybil's Crossing, Kent Lakes, NY at 7:30 p.m. to review the following applications

1. Frank DeEsso
41 Joseph Court
Carmel NY 10512

ZBA-23-011 – Renew a special use permit for accessory apartment. Tax Map 33.-1-10

2. Positive Science Center
170 Waywayanda Court
Kent Lakes NY 10512

ZBA-23-002 – Interpretation of Town Kent code 77-7(c) (5) for use of eleemosynary institute
Tax Map 41,-1-8

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

SITE INSPECTIONS ARE CONDUCTED THE 2nd. SUNDAY OF THE MONTH
BETWEEN 9:00 AM AND 10:00 AM

CC: Town Clerk
Town Board
Zoning Board of Appeals Members
Planning Board Clerk
Wm. Walters, Building Inspector