

TOWN OF KENT
ZONING BOARD OF APPEALS
January 28, 2019
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, January 28, 2019**. The meeting was called to order at **7:30 P.M** by Mr. Gordon Moccio, the ZBA Chairman. After due notice, the following members were present:

Present:

Mr. Gordon Moccio, Chairman
Mr. Ronald Hansen, Vice Chairman
Mr. Brett Harrison
Ms. Jennifer Martinez
Mr. Bill Walters, Building Inspector

Absent:

Mr. Joseph Greico

Mr. Moccio opened the meeting by leading the Pledge of Allegiance.

HOLDOVERS:

1. **Christian Crofoot, 89 Putnam Dr., Carmel, NY 10512; TM: 22.66-1-19**

The applicant requested a 6' side and 6' front variance for modification of an existing deck.
Tax Map #22.66-1-19.

Mr. Frank Smith III, of Shilling Law Office, represented Mr. Crofoot.of 89 Putnam Drive, Kent, NY who also attended the meeting. A Memorandum of Law was submitted previously to the ZBA. The applicants purchased this property in 2010 and a survey was not given to them at that time and the title search did not reveal any violations associated with this property and the applicant was not aware of any violations. Subsequently a survey for a neighboring property revealed the fact that a porch (constructed in 2005) on Mr. Crofoot's property encroached on the neighbor's property. The encroachment was 5' and the relief sought from the ZBA will remedy the encroachment and bring the porch into compliance. The Town Code requires an 8' side yard setback and a 15' front yard setback. The applicant's request for a side yard variance will permit the porch to be 6" from the property line and the front yard variance will allow the porch to be 9' away from the property line. The Zoning Board is given the authority to grant area variances under Code 77-57. Under NY State law area variance requirements are less stringent than a use variance because an area variance does not change the character of the neighborhood. There are 5 criteria (vp to see card for criteria). The granting of the requested variances meet all of the criteria as noted above. There are many other properties in Lake Carmel that have the same issues as this property. The applicant is removing 5' off of the porch to help resolve the problems.

Ms. Martinez asked why the survey was not done when the property was purchased. The applicant said there was one on file, which was later found to be inaccurate.

Mr. Folchetti, of Folchetti Law Firm, represented Cynthia Nieto who also attended the meeting. Ms. Nieto owns the property adjacent to Mr. Crofoot and this is the property where the encroachment is. Mr. Folchetti said that the side setback is the one that Ms. Nieto has a problem with. Ms. Nieto asked for a 1' setback rather than 6".

Mr. Moccia said that there is an outstanding issue with the Town pertaining to an accessory apartment which needs to be removed. Mr. Hansen asked if the applicant would object to Ms. Nieto's request for a 1' rather than 6" setback. Mr. Smith said that they would prefer the 6" variance. Mr. Hansen said that the variance was very significant and they were inclined to give the 1' the neighbor asked for.

**Town of Kent Zoning Board of Appeals Minutes
January 28, 2019**

A Conditional variance was granted to this applicant. When the Building Inspector is satisfied that an accessory apartment has been eliminated the variance will be final. The applicant has until May to remove the accessory apartment within 90 days.

Mr. Moccio asked for a motion to grant the variance for this property. The motion was made by Mr. Hansen and seconded by Mr. Moccio. Following were the roll call votes:

Mr. Gordon Moccio, Chairman	-	<u>Aye</u>
Mr. Ronald Hansen, Sr., Vice Chairman	-	<u>Aye</u>
Mr. Joseph Greico	-	<u>Absent</u>
Mr. Brett Harrison	-	<u>Aye</u>
Ms. Martinez	-	<u>Aye</u>

The motion carried.

NEW BUSINESS:

1. Danuta Opolski, 31 Laguna Rd., Carmel, NY 10512; TM: 22.57-1-49

Mr. Eric Dule, the son of Ms. Opolski who has returned to Poland, attended the meeting. Mr. Dule said he was requesting approval for an accessory apartment, which had been inspected by the Fire Inspector, Board of Health and by Mr. Walters.

Mr. Moccio asked for a motion to grant approval of the accessory apartment for this property. The motion was made by Ms. Martinez and seconded by Mr. Hansen. Following were the roll call votes:

Mr. Gordon Moccio, Chairman	-	<u>Aye</u>
Mr. Ronald Hansen, Sr., Vice Chairman	-	<u>Aye</u>
Mr. Joseph Greico	-	<u>Absent</u>
Mr. Brett Harrison	-	<u>Aye</u>
Ms. Martinez	-	<u>Aye</u>

The motion carried.

2. Gudrum Althoff, 3 Hampton Rd., Carmel, NY 10512; TM: 22.58-1-1

Ms Althoff requested approval for an accessory apartment. Tax Map #22.58-1-1.

Ms. Althoff requested reapproval of an accessory apartment in her house.

Mr. Moccio asked for a motion to grant the variance for this property. The motion was made by Ms. Martinez and seconded by Mr. Hansen. Following were the roll call votes:

Mr. Gordon Moccio, Chairman	-	<u>Aye</u>
Mr. Ronald Hansen, Sr., Vice Chairman	-	<u>Aye</u>
Mr. Joseph Greico	-	<u>Absent</u>
Mr. Brett Harrison	-	<u>Aye</u>
Ms. Martinez	-	<u>Aye</u>

The motion carried.

Town of Kent Zoning Board of Appeals Minutes
January 28, 2019

3. Christine Lovett, 3210 Rte. 301, Carmel, NY; 10512; for property located at 31 Friend Lane, Carmel, NY 10512; TM: 32.6-1-1

Ms. Lovett requested an interpretation of zoning code chapter 77-48 to rebuild a fire damaged home. The property is located at 31 Friend Lane. Tax Map #32.6-1-1.

Ms. Lovett advised the ZBA that her house had been destroyed by fire in 2016 and, rather than rebuild the house, she decided to sell the property. Recently the house was sold, pending approval for the new owners to rebuild in the same footprint of the previous structure. A new septic has been installed and an underground oil tank was removed. Ms. Chin, who was present for the meeting, stated that she and her husband wished to remove the existing structure and build a new house. The property is non-conforming due to the size of the lot. Under Chapter 77-48 you are allowed two years to rebuild on a non-conforming lot and it has been more than two years since the fire occurred on this property. A waiver of this clause was requested.

Mr. Moccia said that they ZBA had discussed this matter and were inclined to grant the requested waiver.

Mr. Moccio asked for a motion to grant the waiver of the zoning code noted above. The motion was made by Mr. Harrison and seconded by Mr. Hansen. Following were the roll call votes:

Mr. Gordon Moccio, Chairman	-	<u>Aye</u>
Mr. Ronald Hansen, Sr., Vice Chairman	-	<u>Aye</u>
Mr. Joseph Greico	-	<u>Absent</u>
Mr. Brett Harrison	-	<u>Aye</u>
Ms. Martinez	-	<u>Aye</u>

The motion carried.

**Town of Kent Zoning Board of Appeals Minutes
January 28, 2019**

4. Eric Nardozzi, 797 Pelhamdale Ave., Pelham, NY 10803; for property located at 9 Bradhurst Rd., Carmel, NY 10512; TM: 22.57-1-20

Requested a 7' side variance for a pre-existing single-family dwelling.

Mr. Nardozzi purchased this property in August of 2018 and, due to the poor condition of the house, wants to demolish the house. He was advised by Mr. Walters that there was catastrophic damage done to the house and that the current setbacks needed to be legalized. The new house will be built within the footprint of the old one. Mors. Sims asked how much her house would be affected by this variance because her property is adjacent to this property. Mr. Nardozzi explained what he planned to do and Ms. Sims was satisfied with his answers. Her concerns were about some trees which were to be removed.

Mr. Moccio asked for a motion to grant the variance for this property. The motion was made by Mr. Moccio and seconded by Ms. Martinez. Following were the roll call votes:

Mr. Gordon Moccio, Chairman	-	<u>Aye</u>
Mr. Ronald Hansen, Sr., Vice Chairman	-	<u>Aye</u>
Mr. Joseph Greico	-	<u>Absent</u>
Mr. Brett Harrison	-	<u>Aye</u>
Ms. Martinez	-	<u>Aye</u>

The motion carried.

5. Giancarlo Gattucci, 72 Barrett Hill Rd., Carmel, NY 10512; TM: 33.24-1-13

Requested a 0' front yard variance with an additional 9'10" portion to be in the right-of-way of a Town Road, pre-existing building. Tax Map # 33.24-1-13.

Mr. Gattucci, the owner of the above mentioned property attended the meeting. Mr. Gattucci explained that his structure is a pre-existing non-conforming structure. He is having problems with his roof and wants to remedy that and to renovate his kitchen. Mr. Othmer, the Kent Highway Superintendent sent a letter advising the ZBA that he had no objection to granting this variance.

Mr. Moccio said the ZBA had seen the letter from Mr. Othmer and that the ZBA had visited the site.

Mr. Moccio asked for a motion to grant the variance for this property. The motion was made by Mr. Hansen and seconded by Mr. Harrison. Following were the roll call votes:

Mr. Gordon Moccio, Chairman	-	<u>Aye</u>
Mr. Ronald Hansen, Sr., Vice Chairman	-	<u>Aye</u>
Mr. Joseph Greico	-	<u>Absent</u>
Mr. Brett Harrison	-	<u>Aye</u>
Ms. Martinez	-	<u>Aye</u>

The motion carried.

Town of Kent Zoning Board of Appeals Minutes
January 28, 2019

6. Approval of the November, 2018 ZBA Minutes

Mr. Moccio asked for a motion to approve the November, 2018 Minutes. There was no meeting in December and no Minutes for that month. The motion was made by Mr. Hansen and seconded by Mr. Moccio. Following were the roll call votes:

Mr. Gordon Moccio, Chairman	-	<u>Aye</u>
Mr. Ronald Hansen, Sr., Vice Chairman	-	<u>Aye</u>
Mr. Joseph Greico	-	<u>Absent</u>
Mr. Brett Harrison	-	<u>Aye</u>
Ms. Martinez	-	<u>Aye</u>

The motion carried.

Mr. Moccio asked for a motion to close the meeting at 8:15 PM. The motion was made by Mr. Harrison and seconded by Mr. Hansen. The roll call votes were as follows:

Mr. Gordon Moccio, Chairman	-	<u>Aye</u>
Mr. Ronald Hansen, Sr., Vice Chairman	-	<u>Aye</u>
Mr. Joseph Greico	-	<u>Absent</u>
Mr. Brett Harrison	-	<u>Aye</u>
Ms. Martinez	-	<u>Aye</u>

The motion carried.

Cordially Submitted,



Vera Patterson

CC: Town Clerk
Planning Board
Town Board
Zoning Board
Emily Cole, Building Dept. Clerk
William Walters, Building Inspector

Town of Kent Zoning Board of Appeals Minutes
January 28, 2019

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 January 28, 2019** at the Kent Town Hall, 25 Sybil's Crossing, Kent Lakes, NY at 7:30 p.m. to review the following applications.

1. Danuta Opolski
31 Laguna Rd
Carmel NY 10512

Requesting approval for accessory apartment. Tax Map # 22.57-1-49.

2. Gudrum Althoff
3 Hampton Road
Carmel NY 10512

Requesting approval for accessory apartment. Tax Map # 22.58-1-1.

3. Christine Lovett
3210 Route 301
Carmel NY 10512

Interpretation of zoning code chapter 77-48 to rebuild a fire damaged home. Property located at 31 Friend Lane- Tax Map #32.6-1-1.

4. Eric Nardozzi
797 Pelhamdale Ave
Pelham NY 10803

Requesting 7' side variance for pre-existing single-family dwelling. Tax Map #22.57-1-20

5. Giancarlo Gattucci
72 Barrett Hill Road
Carmel, NY 10512

Requesting 9' front with additional 9'10" portion to be in the right-of-way of a Town Road, pre-existing building. Tax Map #33.24-1-13.

HOLDOVERS

Christian Crofoot
89 Putnam Dr
Carmel NY 10512

Requesting 6" side variance and 6' front variance for modification of existing deck. Tax Map # 22.66-1-19.

SITE INSPECTIONS ARE THE SECOND SUNDAY OF THE MONTH.

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