

TOWN OF KENT
ZONING BOARD OF APPEALS
June 17, 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, June 17, 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. Joseph Greico
Mr. Brett Harrison

Absent:

Mr. Bill Walters, Building Inspector

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

Mr. Moccio also asked the audience to take a moment of silence in memory of the Honorable Justice James Reitz, who recently passed away and served Putnam County with distinction.

NEW BUSINESS:

1. **Justin Conley, 20 Montrose Drive, Carmel, NY ; TM: 33.35-2-45**

Requested 4.5' front yard variance for a proposed 8' x 28' deck addition.
Tax Map #33.35-2-45.

Mr. Conley requested a small extension to put a porch on the front of his house. Mr. Conley presented the green cards to the ZBA.

Mr. Moccio said that there was a site visit and Mr. Hansen said that he had no issues with the requested variance and the other Board members said they did not have any issues either.

Mr. Moccio asked for a motion to grant the variance. 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>Aye</u>
Mr. Brett Harrison	-	<u>Aye</u>

The motion carried.

2. **John Haran, 28 Hamilton Drive, Carmel, NY; TM: 22.57-2-24**

Requested a .9' side yard variance for a proposed deck and a 19' rear yard variance. A 7' side yard variance was requested for a proposed shed. Tax Map # 22.57-2-24.

Mr. Haran advised the ZBA that he wants to make his deck the same width as his house. He also asked for a 7' side variance for a 10' x 10' shed he wants to have put on the back corner of his property.

Mr. Moccio said there was a site visit made to inspect the property. The ZBA's concern is the size of the proposed shed and had questions about the size of the shed and the area where it was to be placed. Mr. Haran said the shed he wanted to have constructed was 10' x 15' and he wanted to have it placed the long way on his property. Mr. Moccio said that according to the drawing there would be about 1.5' clearance and the ZBA would prefer that there be 2' clearance from the wall rather than the 1.5'. Mr. Hansen advised Mr. Haran that if the shed were 10' x 10' change the orientation and move the shed closer to the deck. Mr. Harrison said if Mr. Haran changed the orientation it would use a large portion of the back yard. Mr. Greico said if the shed was over 10' x 10' it was a taxable structure. The deck is 12' x 12' at the present time and the applicant wants to make it 14' x 16' and he is lifting it off of the ground.

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Mr. Haran said that he could have a 10' x 10' shed installed and that he would agree to a 2' clearance on the sides of the shed.

Mr. Moccio asked for a motion to grant the variance. The motion was made by Mr. Greico 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>Aye</u>
Mr. Brett Harrison	-	<u>Aye</u>

The motion carried.

3. Gerald Raneri, 16 Nelson Court, Carmel, NY; TM: 33.80-1-1

Requested a variance for no frontage on Parcel 33.18-1-28 to build a single-family residence with access to Hillside Road from Parcel #33.80-1-1.

Mr. John Karell, the applicant's engineer, Mr. Raneri, the owner of the property and Mr. Joseph Charbonneau, the applicant's attorney attended the meeting.

This is a 280 A referral under the Town Law and a in response to a memo from the Town Planner in agreement with the Town Counsel for the Planning Board. The property abuts Hillside Road, which is a paper road and not an official town Road. Mr. Charbonneau referred to a memo dated June 5, 2018 from the Kent Highway Superintendent (attached) regarding his opinion of the composition of the road and its accessibility to this lot.

Mr. Moccio said the Zoning Board members spent two hours on the site. Mr. Moccio asked if anyone in the audience wished to speak.

Mr. & Mrs. Mallegol, of 23 Sunset Court, asked how their property would be affected. Mr. Karell said that the Mallegol site is above the property in question and that Mr. Raneri's property is not near their property. Mr. & Mrs. Mallegol had no more questions.

Mr. Moccio said that the application was going to be rejected because there is no dedicated town road or road maintained by the town providing egress to the property. Mr. Charbonneau said that was the purpose of a 280 A variance for a lot that does not front a town road. The letter from Mr. Othmer could be considered by the ZBA. There are two other single-family lots serviced by that road at the present time. Mr. Charbonneau pointed out that at some point these people must have requested what Mr. Raneri is requesting. There is no change to the characteristic of the neighborhood. There no other means of ingress or egress to this property. The requested 280 A variance is not substantial. The environmental impact is negligible at best. A maximum extension of the road is about 50' and the Planning Board would be the proper venue for determining what specifications that road would require. This was not a self-created situation and Mr. Raneri has tried to purchase other properties to alleviate the situation and has not been successful. There are no other means of ingress or egress and Mr. Charbonneau asked that the ZBA reconsider their decision.

Mr. Moccio said that the ZBA appreciated Mr. Charbonneau bringing them "up to speed" on the ZBA's past. Mr. Moccio said that he is still not ready to forward this application until the Board is convinced that there is a dedicated town road for ingress or egress to this property. Mr. Charbonneau said that the applicant can't tell the Town Board to take over custody of that road. Mr. Moccio said that Mr. Raneri could build a town road and ask the Town Board to dedicate it. Mr. Karell said that Hillside Road has been a paved road with sufficient width to allow cars to pass. Fire equipment can also access it. Mr. Karell said that Mr. Othmer's memo also stated that he thinks the road is sufficiently structured to allow an additional residence to be built. Mr. Hansen said that Hillside Road actually stops at the house on the corner and the applicant is asking the Board to allow the applicant to make a right turn onto Sunset Court (another paper Road) and go through a couple of lots to access. Mr. Hansen said that there is a pile of wood chips which people would drive on. Mr. Karell said that the road will be improved to 2" asphalt with a 6" item 4 base and an asphalt driveway will be build to go up to the house. Mr. Charbonneau reiterated that the Planning Board would have the responsibility to ensure the road is constructed according to the Town Code.

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Mr. Moccio asked for a motion to grant or reject the variance. The motion to reject the request for this variance was made by Mr. Greico 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>Aye</u>
Mr. Brett Harrison	-	<u>Aye</u>

The motion carried.

4. Anthony DiMartino, 94 Anna Street, Carmel, NY; TM: 22-17-1-30

Requested a 33' rear yard variance for a proposed pool deck. Tax Map #22.17-1-30.

Mr. DiMartino asked for a variance for a 20' x 12' pool deck on the rear of his property.

Mr. Moccio said the Board members had visited the site and had no concerns regarding this variance.

Mr. Moccio asked for a motion to grant the variance. 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>Aye</u>
Mr. Brett Harrison	-	<u>Aye</u>

The motion carried.

5. Mr. Moccio asked for a motion to approve the ZBA minutes from April and May, 2019. The motion was made by Mr. Greico 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>Aye</u>
Mr. Brett Harrison	-	<u>Aye</u>

The motion carried.

Mr. Moccio asked for a motion to close the meeting at 8:35 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>Aye</u>
Mr. Brett Harrison	-	<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

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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 June 17, 2019** at the Kent Town Hall, 25 Sybil's Crossing, Kent Lakes, NY at 7:30 p.m. to review the following applications.

1. Justin Conley
20 Montrose Dr.
Carmel, NY 10512

Requesting a 4.5' front variance for a proposed 8' x 28' deck addition. Tax Map #33.35-2-45.

2. John Haran
28 Hamilton Dr.
Carmel, NY 10512

Requesting a 9' side variance for a proposed deck & a 19' rear variance. A 7' side variance is also requested for a proposed shed. Tax Map # 22.57-2-24.

3. Gerald Raneri
16 Nelson Ct.
Carmel, NY 110512

Requesting a variance for no frontage on Parcel 33.18-1-28 to build a single-family dwelling with access to Hillside Road from Parcel #33.80-1-1.

4. Anthony DiMartino
94 Anna St.
Carmel, NY 10512

Requesting a 33' rear variance for a proposed pool deck. Tax Map #22.17-1-30.

SITE INSPECTIONS ARE THE SECOND SUNDAY OF THE MONTH.

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

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MEMORANDUM

TO: Town of Kent Planning Board (via email only)

CC: Bill Walters, Building Inspector
Julie Mangarillo, P.E., CPESC
Liz Axelson, AICP
Bruce Barber, Town of Kent Environmental Consultant

FROM: Jeffrey S. Battistoni, Esq.

DATE: March 27, 2019

RE: Raneri Erosion Control Permit & SWPPP; & Single-Family Lot
Development Zoning Requirements, Hillside Paper Road, Tax
Parcel No. 44-24-1-3; 33.18-1-28; & 33.80-1-1/CPL# 60094.00

I have reviewed copies of deeds, plans and a property description provided by the applicant's consultants and I have the following comments related to ownership issues.

First, the deed dated October 4, 1999 and recorded in Liber 1487 at page 360 conveyed most of the property which Mr. Raneri indicates he owns as part of this application. That deed conveyed property to Jerry Raneri and Jeanette Toscano. Subsequently, Jeanette Toscano conveyed her interest in the subject property to Jerry Raneri by deed dated June 20, 2002 and recorded in Liber 1598 at page 371. There is a "typo" in the

deed description in reference to one of the Lot Numbers. More significantly, the description fails to include a large parcel to the north of Lots Numbers 15571-15582. A title company might require a Correction Deed in order to insure title. We may have to ask the applicant to have a title company submit a report about this issue.

Second, the above referenced deeds do not include parcels identified as Lot Nos. 15548 and 15549. These are the two parcels which give access to the "paper" street known as Sunset Road. A copy of a Resolution from the Putnam County Legislature dated May 2, 2017 was provided. It authorizes the conveyance to Jerry Raneri of real property identified by Town of Kent Tax Map No. 33.80-1-1., which is presumably Lots Nos. 15548 and 15549. However, we need verification of that fact. The Resolution requires a closing and the consolidation of the parcel conveyed with another parcel already owned by Mr. Raneri, identified by Tax Map No.33.12-1-28.

I have not received a copy of the deed for the conveyance from Putnam County to Mr. Raneri, so a copy of that recorded deed must be provided. I also have not received a copy of the Consolidation Deed which was required by the said Resolution. I wonder whether such a deed was ever recorded with the County Clerk. If so, I need to review a copy. If not, one needs to be prepared and recorded.

The application contemplates 3 tax parcels being consolidated into one. The applicant has submitted a copy of a description from Geologic Land Surveying, PLLC, which describes the consolidated parcel and which matches the plans submitted by the applicant. Once again, I wonder if a Consolidation Deed was ever recorded, using this description. It seems doubtful, since the description is dated January 7, 2019. If that Consolidation

Deed was recorded with the County Clerk, I need to review a copy of it. If it was not, it needs to be.

Third, I do not see any documents which show ownership of the unimproved, "paper" street known as Sunset Road. It is incumbent on the applicant to submit documents establishing such ownership. Ordinarily, a title company would do so through a title report, which indicates the ownership which the title company is willing to insure. I think the applicant should be required to obtain and submit such a title report. That title company should also address whether the description in the deed from Jeanette Toscano to Jerry Raneri (above referenced) is insurable or whether it needs to be corrected.

In my view, all of these ownership and consolidation issues must be adequately addressed before the application should proceed any further.

Fourth, I agree with the issues raised in Liz Axelson's Memorandum of February 14, 2019 about access and frontage. Under Town Code Sections 77-16(H) and 77-34.3, a building lot must adjoin an improved street or have access to an unimproved street that will be improved as part of the development plan for the lot. Once ownership of Sunset Road has been established, if the applicant is then able to improve the portion of it on which his property fronts (improve it in a manner which meets the standards set in the Town Code), then that issue is resolved. Alternatively, it appears that Town Code Section 77-51(B) allows the "Board of Appeals" to approve an application pursuant to NYS Town Law Section 280-a. The applicant may choose to pursue such an application.

In summary, the applicant must first satisfy ownership and consolidation issues. Then, a determination can be made about whether improving a portion of Sunset Road will occur or whether an application to the Zoning Board of Appeals should be made.

Please contact me if you need to discuss the contents of
this Memorandum.


Jeffrey S. Battistoni

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