

HARWINTON ZONING COMMISSION
MONDAY, FEBRUARY 26, 2024
TOWN HALL 7:00 P.M.

Present: Chairman Daniel Thurston, Secretary Theodore Root, William Ponte, Deborah Kovall, Alternate Member Dave Foster, Alternate Member Stephen Smith, Land Use Coordinator Polly Redmond and Zoning Enforcement Officer Don Truskauskas

Absent: Michelle Whitford and Alternate Member Victoria Elliot

PLEDGE OF ALLEGIANCE

PUBLIC HEARING - CONTINUED

1. OPEN HEARING – ESTABLISH QUORUM.

Chairman D. Thurston called the hearing to order at 7:00 p.m. All regular members present are seated with Alternate Member D. Foster seated for M. Whitford.

2. KEVIN MCGIVERN – APPLICATION FOR SPECIAL PERMIT FOR ACCESSORY APARTMENT (EXISTING) IN NEWLY CONSTRUCTED HOME, 91 CATLIN ROAD.

Mr. McGivern is present and provides a revised as built, dated 2/26/24, showing reshaping of the driveway extended out to accommodate for two parking spaces for occupants of the accessory apartment and to be in compliance with Zoning Regulation Section 9.3.5. Mr. McGivern notes that the driveway will be paved. ZEO D. Truskauskas states that the as built shows the driveway as “proposed” and that this area still needs to be boxed out as it is presently part grass and part gravel. A Certificate of Compliance cannot be issued until this is done. Mr. McGivern provides a sketch showing the location of the trees and bushes he will plant noting that he can’t plant anything in the leaching area. Tree types will include two each of the following: apple, pear, peach and plum trees. Bushes planted will be raspberry, blackberry, and blueberry. Mr. McGivern submitted a letter addressing the letter sent in by Todd Werner which was read into the record at the 2/12/2024 Zoning public hearing. Mr. McGivern’s letter is as follows:

I have reviewed the requirements for an accessory apartment and would like to address several issues that were addressed to the commission via a written letter that was read into the minutes for the special permit application for the accessory apartment at 91 Catlin Rd in Harwinton CT.

1. I quote from section 9.3: “It is not the intent to limit these circumstances to resident domestic employees or estate caretakers or in-laws or grown children or the caretaker needs of the elderly or infirm, but to list these uses and needs as typical.” Per this definition the concern that the apartment might have a future of a non-family member is covered by this. In effect, this definition permits the apartment to be occupied by a nonfamily member. The use of the term typical in the above statement asserts that domestic employees or estate caretakers or in-laws or grown children or the caretaker needs of the elderly or infirm is suggested, not necessarily required constraints. Hence, the concern brought up about future occupation by a non-family member is mute, and as such is not a valid concern.
2. The issue of Accessory Apartments being added to existing structures falls under the “typical” category. Adding an accessory apartment to an existing structure is “typically” the manner of execution. This does not limit the designing and building a house with an accessory apartment in the plan.
3. The apartment does have its own bathroom and kitchen.
4. There are two parking spaces in the building plan.
5. The apartment was designed and meets the safety requirements per the documentation supplied to the commission that was approved by the state of Connecticut.

Mr. Werner was given a copy of Mr. McGivern's letter and responds with an email to the Land Use office that states the following:

I'd like to note that I'm not against an accessory apartment that complies with all the regulations, but I am against an apartment that is not truly accessory to the primary use. Ultimately this is a decision for the commission on how to apply the regulations in the town of Harwinton. My hope is that there is documented reasoning for decisions relating to this matter whatever the outcome.

1. The statement in Item #1 misses the point. There has not been an argument that a non-family member cannot occupy the accessory apartment. The point as stated in my previous letter section 2, paragraph 3 is that there is a relationship between the occupants of the primary use and the accessory use. If there were no relationship, the accessory use could not be subordinate as required by Section 9.3 and therefore would not be permitted.
2. Whether an exception should be made because this is a new building vs. an existing building is for the commission to determine. Once again, I note that the accessory use needs to be subordinate and incidental to the primary use. If it is not, then the applicant is requesting simply an "apartment" be approved without being accessory to the primary use. An example of a legitimate exception that I can think of is if someone were to plan on a building with a housekeeper or caretaker's quarters. This role is clearly accessory to the primary use.
3. I don't think anyone said the proposed apartment does not have its own bathroom or kitchen. There is also nothing saying a section of a home needs to be separated to have an "accessor apartment." if it has multiple bathrooms or kitchen.
4. There need to be two parking spaces dedicated to the accessory apartment in addition to the parking spaces dedicated to the primary use. They should be labeled and designated as such. By my math, this is 4 parking spaces as well as adequate room to turn around when backing out of the garage.
5. I'm unclear what point of the statement on safety is. Have the documents received a stamp by an architect licensed in the State of Connecticut yet?

Chairman D. Thurston opens the floor to public comment to which there is none.

3. CONTINUE OR CLOSE HEARING.

T. Root **motioned** to close the public hearing at 7:23 p.m., seconded by D. Foster. Motion passed unanimously.

REGULAR MEETING

1. OPEN MEETING -- ESTABLISH QUORUM.

Chairman D. Thurston called the meeting to order at 7:24 p.m. All regular members present are seated with Alternate Member D. Foster seated for M. Whitford.

2. APPROVE MINUTES OF PREVIOUS MEETING: 2/12/2024

T. Root **motioned** to approve the minutes of the previous meeting, seconded by D. Foster. Motion passed unanimously with W. Ponte refraining from vote due to his absence at the previous meeting.

3. DISCUSSION/POSSIBLE DECISION -- KEVIN MCGIVERN - APPLICATION FOR SPECIAL PERMIT FOR ACCESSORY APARTMENT (EXISTING) IN NEWLY CONSTRUCTED HOME, 91 CATLIN ROAD.

Commissioners discuss the fact that the house is intended as a single family dwelling and that it is irrelevant that the house was being built with the accessory apartment already planned out instead of applied for after the house was complete and a C.O. issued. D. Foster **motioned** to approve the application for Special Permit for the following reasons: that the house is intended to be used as a single family dwelling with an accessory apartment and that the appearance of the house is in harmony and conforms

with the neighborhood and will not impair the value of adjacent property. D. Foster conditions in his motion that, in accordance with Zoning Regulation 9.3.7, that the intent is to permit the accessory use but that the applicant must be the owner and occupant of the principal use. W. Ponte seconded the motion and it passed unanimously with Commissioner D. Kovall abstaining. Special Permits run with the land and the use of this property, with the condition that the owner or any future owners, must be the occupant of the principal use shall apply.

4. LEONARD LOPARDO – DISCUSSION OF SUNSET RIDGE OFF MOUNTAIN VIEW DRIVE, HANNAH WAY, LAUREN LANE.

Mr. Lopardo is present and provides a letter dated 2/21/2024 from Todd Parsons, PE, Senior Project Manager, Haley Ward, in regards to the slope repair behind Units 20 and 21. The letter explains that the work consists of installing an underdrain and placing crushed stone on the slope. The work will require heavy equipment for moving materials from the paved road to the work area and for placing the materials where called for on the plans. Mr. Parsons recommends that the work be undertaken when the ground is firm and can support the construction equipment without causing unnecessary damage to existing utilities and landscaped areas. Given the warm and wet winter, it is their experience, firm conditions may not prevail unless a solid freeze occurs or until warmer weather melts any remaining frost and helps to dry out the ground. A second letter dated 2/22/2024 from Robert Colabella, PE, Senior Project Manager, Haley Ward, in regards to the water quality basin inspection, he writes that Haley Ward inspected the referenced water quality basin on February 22, 2024 and specifically observed the condition of water quality basin components as specified in the Stormwater Maintenance Plan prepared by Lenard Engineering April 24, 2006. The following components were reviewed by Haley Ward with narrative and photos included as attachments in the letter:

- 1) Turf Quality - narrative reads, "Snow-cover impeded a complete inspection of turf quality along the north and west edges of the WQB [Water Quality Basin]. The south and east edges are manicured to grade, with varying degrees of phragmite (reed grass) and typha latifolia (cattail) growth. These invasive growths have been cut clear to grade along the upper slopes of the WQB." 2) Outlet Structure – narrative reads, "The concrete v-notched weir and associated catch basin top have a slight lean southwest. There is minor invasive growth beginning to form in front of the v-notch which should be cleared. The functionality of the weir is performing as intended, the water level in the wet pond is at the base of the v-notch and the noted minor invasive plant growth is not obstructing water flow to the outlet." 3) Forebay – narrative reads, "The entire forebay is overgrown with noted invasive plant species. There is sediment build-up within the forebay. The sediment has not filled the forebay. The invasive species should be removed from the forebay and at the same time root removal will also remove a generous portion of sediment build-up."
- 4) Emergency Spillway – narrative reads, "The emergency spillway does not appear to be eroding but is also experiencing the same invasive species growth as the rest of the sloped edges of the basin."
- 5) Plantings – narrative reads, "The plantings around the WQB appear to be in a healthy winter season state. Haley Ward does not recommend any changes to the various shrubbery and trees that surround the WQB."
- 6) Riprap – narrative reads, "The riprap is intact sans two or three stones that have migrated away from the outlet. There is vegetative growth of varying kinds growing through and around the riprap which should be removed for functionality."
- 7) Wet Pond – narrative reads, "The wet pond does not have an aggressive growth of invasive species and is functioning as designed. There is some invasive growth since the last cut primarily along the western edge with minor growth along the east edge."
- 8) Inlets (12" and 24"), narrative reads: "The 12" ADS flared end is completely underwater due to sediment build-up at its point of discharge. There is a build-up of iron leachate at this location derived from groundwater passing through natural irons within the substrate soils upgradient of this outfall. The leaching iron follows the pipe bedding and has migrated to the outfall location. Sediment and leachates in the area should be removed from the water quality basin. The 24" ADS flared end is clear of sediment. There has been an effort to remove invasive species growth at its discharge location but there has been new growth since the last cut."

In Summary, Robert Colabella writes, the WQB is functioning as designed. Haley Ward recommends the following maintenance: 1) Contact a specialist to treat and/or eradicate invasive species growth in the following areas: a. Manicured lawn areas, b. Around outlet structure and c. The entire forebay. 2) Reposition riprap stones that have migrated to the flared end discharge location and 3. Remove plant growth within riprap areas.

Mr. Lopardo informs the Commission that the curbs within the development will be topsoiled tomorrow and also the curbing at the top section where the parking area is will be done. In regards to the detention pond, Todd Parsons will be giving him names of people who can treat the pond to get rid of the invasive plants and the Association can use this person "down the road". Mr. Lopardo states that he will clean out the pond in the forebay area where water comes in from the road. ZEO D. Truskauskas states that at the inlet into the pond, the ADS pipe is underwater and should be addressed. Mr. Lopardo states that Todd Parsons believes the detention pond is doing what it should be doing. T. Root questions Mr. Lopardo on when work would begin with Mr. Lopardo answering, not until spring as it needs to dry out. Regarding the slope, Mr. Lopardo states that Todd Parsons recommended that work be done when the ground is frozen but recommends spring time. Mr. Lopardo states that HOCON Gas informed him that one should stay off the area as a propane gas line is in this vicinity and Mr. Lopardo notes there are also conduits for electricity in this area. T. Root addresses Mr. Lopardo asking what if there is a wet spring, how can the homes be protected from the slope. Mr. Lopardo answers that if there is a rainstorm with five to six inches of rain expected, he will address the situation and perhaps might have to fortify the trenches that exist to redirect the water and perhaps even place rip rap down. Mr. Lopardo states that he will provide LUC Redmond with an action plan for prevention of the slope being more compromised. LUC Redmond will forward the information on to the Zoning Commission and to Lillian Busse, President of Sunset Ridge Association, 15 Hannah Way. Greg Lucian, 31 Hannah Way, wants to point out that the trench Mr. Lopardo speaks of that may need to be fortified was done by the residents of Sunset Ridge and is working not because of Mr. Lopardo but because of the neighbors. Mr. Lopardo notes that he is hoping to start work on the slope in early April with ZEO D. Truskauskas stating that it should only take two days max to complete the work that needs to be done. Mr. Lopardo explains that 100 yards will come off the slope then rip rap will go in and get compacted. Once that is done, it should go quickly. ZEO Truskauskas states that a steel plate could be used over the gas line for protection when work begins on the slope even under wet conditions.

D. Kovall states her belief that a plan is always being made by Mr. Lopardo to have something done but then it doesn't happen. This matter is on every meeting agenda and she feels as if the Commission is just wasting their time because it doesn't happen. Mr. Lopardo says he is going to do something and then two or three weeks pass and the Commission hears the same thing from Mr. Lopardo, "it's going to be done."

Greg Lucian, 31 Hannah Way, referring to the talk of "window of time", states it has been six months since the slope came down and Mr. Lopardo's excavator could have been out there in that window of time and the work would be done right now. He questions who will say that the work on the slope has been done properly with T. Root responding, the engineer, Todd Parsons.

Cindy Lucian, 31 Hannah Way, questions why if the engineer is on site with the contractor, and they see the gas line area that is marked, couldn't the gas representative be there also to make certain of safety?

George Perlotto, 33 Hannah Way, questions that, among the talk about the drainage, will landscaping for the slope be included with Mr. Lopardo answering, yes.

Mr. Lopardo states that he will have his engineer and excavator on site and also his surveyor to get their data for the as built. D. Foster states that, with all the players involved, Mr. Lopardo should start getting it all together now.

Mr. Lopardo states that he will arrange to have his excavator, Dave Curtis, speak with ZEO Truskauskas tomorrow.

This item will be placed on the next Zoning meeting agenda scheduled for March 11, 2024 for further discussion.

5. DISCUSSION – 100 WILDCAT HILL ROAD – MOBILE HOME PERMIT ISSUED JUNE 2023 AFTER HOUSE FIRE. EXPIRED.

LUC Redmond has written a letter, dated 1/19/2024, to the owner of 100 Wildcat Hill Road informing him that the six-month allowance granted for the temporary mobile home to be placed on the property after a house fire displaced the tenants has expired and that if no work has begun to reconstruct or rebuild the home, the trailer must be removed. The letter advised the owner to reach out to the Land Use office for possible extensions of time to keep the mobile home on site but there has been no contact to the Land Use office. Commissioners agree that the trailer must now be removed as there is no evidence of work being done to rebuild the house. LUC Redmond will write to the owner informing him of this.

6. COMPLAINTS/ENFORCEMENT ACTIONS.

A written complaint has been sent to the Land Use office about guinea hens from 490 Wildcat Hill Road that are creating a nuisance and entering the property at 477 Wildcat Hill Road. Zoning Regulations state that poultry must be penned or fenced in if they are creating a nuisance to neighbors. ZEO Truskauskas states that he drove by 490 Wildcat Hill Road but saw no hens. He left his business card for the owner to contact him but he has not heard from the owner yet.

7. ANY OTHER BUSINESS.

None.

8. INFORMAL DISCUSSION – PROPOSED ZONING REGULATION AMENDMENTS.

No discussion.

9. CORRESPONDENCE.

None.

10. INVOICES.

None.

11. ADJOURN.

W. Ponte **motioned** to adjourn the meeting at 8:45 p.m., seconded by T. Root. Motion passed unanimously.

Respectfully submitted,

Polly Redmond
Land Use Coordinator

