

**HARWINTON ZONING COMMISSION**  
**MONDAY, SEPTEMBER 24, 2018**  
**TOWN HALL 7:00 P.M.**

Present: Chairwoman Michelle Rewenko, Cynthia Kasey, Matthew Szydlo, Deborah Kovall, Alternate Member Theodore Root, Alternate Member Nancy Schnyer, Land Use Coordinator Polly Redmond and ZEO Thomas Mitchell.  
Also Present: Town Counsel Michael D. Rybak  
Absent: Daniel Thurston and Alternate Member D. Truskauskas

**PLEDGE OF ALLEGIANCE**

**PUBLIC HEARING #1 - CONTINUED**

**1. OPEN HEARING – ESTABLISH QUORUM.**

Chairwoman Rewenko called the hearing to order at 7:00 p.m. All regular members present are seated with Alternate Member Nancy Schnyer seated for Daniel Thurston.

**2. BUMPER BROOK ESTATES, LLC – PETITION TO AMEND ZONING REGULATIONS, DATED 11/20/17, SECTION 2.3 DEFINITION OF ELDERLY HOUSING AND SECTION 9.9 ELDERLY HOUSING. HEARING OPENED 8/27/18. 35<sup>TH</sup> DAY TO KEEP HEARING OPEN: 9/30/18.**

Atty. William J. Tracy, Furey, Donovan, Tracy & Daly, P.C., Bristol, CT is present to represent the applicant noting that the public hearing was kept open for any additional questions the Commission might have. Commissioners had last asked for clarification on the proposed definition for age restrictions and the Federal Fair Housing Act. There was also discussion of whether the age limitations restriction (covenant) was necessary. This is now a special permit process and that would go with the life of the property until modified.  
Atty. Tracy notes that Commissioner D. Truskauskas had comments at the last hearing on Section 9.9.2 suggesting that wording include "...using the ratio of **at least** one and one-half parking spaces per dwelling unit." Also in Section 9.9.15 that wording be amended to read, "...to protect property values, and to preserve **and/or** improve the appearance and beauty of the community."

Atty. Michael D. Rybak states that in looking over cases and statutes on age restricted definition, he believes it safest to stay with the federal definition that gives you the three options of 1) housing provided under any State or Federal program that the Secretary (of HUD) determines is specifically designed and operated to assist elderly persons, 2) housing intended for, and solely occupied by, persons 62 years of age or older, and 3) housing intended and operated for occupancy by persons 55 years of age or older, and at least 80% of the occupied units are occupied by at least one person who is 55 years of age or older. He believes the Commission shouldn't deviate from that in that it is the developer's responsibility to be in compliance with that regulation. If you aren't in compliance with that regulation, there is a violation of fair housing and you need a safety valve and the 80% gives you that for if someone dies and has a younger spouse, a nurse's aide who is a live-in, or grandparents who have custody of their grandchildren. Units are two-bedroom units with approximately 950 square feet of living space; they are not built for families. There is a need for age-restricted rental housing in town. Atty. Rybak states his final analysis is, if we can come up with a good definition, it's in the best interest for the town. LUC Redmond asks for clarification then on whether proposed Section 9.9.16 in regards to covenants, deeds and the twenty-year life span of those things is needed with Atty. Rybak stating that with the requirement for a special permit to construct an elderly housing complex now, the special permit is filed on the land records, so there is no need for covenants and deeds to be filed on the land records. There are no further comments from Commissioners and no public comment at this time.

**3. CONTINUE OR CLOSE HEARING.**

M. Szydlo **motioned** to close the hearing at 7:09 p.m., seconded by C. Kasey. Motion passed unanimously.

**PUBLIC HEARING #2 - CONTINUED**

**1. OPEN HEARING – ESTABLISH QUORUM.**

Chairwoman Rewenko called the hearing to order at 7:09 p.m. All regular members present are seated with Alternate Member Nancy Schnyer seated for Daniel Thurston.

**2. BUMPER BROOK ESTATES, LLC – PETITION FOR A ZONE CHANGE FROM LIGHT INDUSTRIAL TO A TOWN RESIDENTIAL ZONE, TWENTY-FOUR BUMPER ROAD, ASSESSORS MAP NOS. A8-03-0003, A8-03-0004 AND A8-03-0006.**

**HEARING OPENED 8/27/18. 35<sup>TH</sup> DAY TO KEEP HEARING OPEN: 9/30/18.**

Atty. William J. Tracy, Furey, Donovan, Tracy & Daly, P.C., Bristol, CT is present to represent the applicant and states he has nothing more to add to the record and notes that the public hearing was kept open for any questions that might have needed to be resolved. He does ask of the Commission that if the proposed text amendments of public hearing #1 is not to be approved, that they keep the zone of this property as it is, being Light Industrial. There is no public comment.

**3. CONTINUE OR CLOSE HEARING.**

D. Kovall **motioned** to close the hearing at 7:11 p.m., seconded by M. Szydlo. Motion passed unanimously.

**REGULAR MEETING**

**1. OPEN MEETING – ESTABLISH QUORUM.**

Chairwoman Rewenko called the meeting to order at 7:11 p.m. All regular members present are seated with Alternate Member Nancy Schyner seated for Daniel Thurston.

**2. APPROVE MINUTES OF PREVIOUS MEETING: 9/10/18**

M. Szydlo **motioned** to approve the minutes of the previous meeting with an amendment to page 9, Item 4, to correct the address of The Edison Grill to be 178/182 Birge Park Road and an amendment to page 13, paragraph 5, line 5 to read, "...that **Ralph Conroy** (*omit Ralph Johnson*) has dumped process in that area..." D. Kovall seconded the motion and it passed unanimously.

**3. PUBLIC COMMENT.**

None.

**4. DISCUSSION/POSSIBLE DECISION - THE EDISON GRILL, LLC, 178/182 BIRGE PARK ROAD – APPLICATION TO MODIFY A SPECIAL PERMIT GRANTED BY THE ZONING COMMISSION ON APRIL 8, 2013 AND SPECIFICALLY CONDITION (3) IN ORDER TO ALLOW FOR LIVE ENTERTAINMENT. PUBLIC HEARING CLOSED 8/13/18. 65<sup>TH</sup> DAY TO MAKE A DECISION WITHOUT EXTENSIONS: 10/16/18.**

C. Kasey states that it is her understanding now that restrictions can be placed on a decision allowing the Commission to remove the request in the application for "entertainment" and only allow "music" if that is how the Commission wishes to vote.

D. Kovall states that she now realizes the application for modification is not as cut and dried and clear as first thought when this process began when it comes to accountability, necessity and to the good of the public and community. Any decision made will run with the property until a new property owner comes before this Commission and petitions for another change. She states that she would like to continue discussion to debate

on this and be specific because it becomes a part of policy and something that is going to ride with this property regardless of who is involved in it. Any decision better be sound and so she would like to consider and have the Commission debate on this now that they have a good chunk of input that shows them the pitfalls, and there surely are pitfalls. C. Kasey agrees and expresses her concerns with who might end up owning the restaurant and what their vision and intentions would be. D. Kovall states that there when there is a verbal assurance that something will never happen, that could go in the other direction quickly since it is only verbal. She states she is struck by the tenacity in which the neighbors have shown in their concerns and we should take that into consideration because there is no assurance, no plot plan, no sound barriers proposed, and even when you say music will take place three times a year, two times a year, it can be any time, and we should want that to be tied to a special event and we need to absolutely say that it be tied to a special event. She notes that it was said that the restaurant would never expand to the whole building because of the size of the septic system but with engineering advances expanding all the time, it could happen. Again she states that she would like to have more discussion with the Commissioners and review draft decisions that have been drawn up. C. Kasey **motioned** to continue discussion to the next Zoning meeting on Tuesday, October 9, 2018, seconded by D. Kovall. Motion passed unanimously.

**5. DISCUSSION/POSSIBLE DECISION – BUMPER BROOK ESTATES, LLC – PETITION TO AMEND ZONING REGULATIONS, DATED 11/20/17, SECTION 2.3 DEFINITION OF ELDERLY HOUSING AND SECTION 9.9 ELDERLY HOUSING.**

D. Kovall notes that the only thing Commissioners had question on was the age restriction definition and that has been cleared up. She states that she is in favor of approving the definition with the Federal Fair Housing Act requirements. Other amendments to the proposed regulations that the Commission would like to see include; Section 9.9.2 suggesting that wording include "...using the ratio of **at least** one and one-half parking spaces per dwelling unit." Also in Section 9.9.15 that wording be amended to read, "...to protect property" values, and to preserve **and/or** improve the appearance and beauty of the community." and Section 9.9.16 that should be deleted in its entirety. Atty. Rybak notes that the following wording must be added to Section 2.3 Definitions: "and at least 80% of the units are occupied by at least one person who is 55 years of age or older."

M. Szydlo refers to proposed Regulation Section 9.9.15.1 where it states "pitched roofs will be encouraged." This is taken from current Zoning Regulation 4.7.4.f.1. and he questions why it's not "required". After some discussion Commissioners agree that 9.9.15.1. and 9.9.15.2. shall remain as presented by the applicant. Chairwoman Rewenko points out that existing text Regulation 9.9.3 has the following wording "*Where the housing is served by on-site sewer and a public or private community water system there shall be not more than four (4) dwelling units for each forty thousand square feet of site area.*" She questions why that wording doesn't follow into proposed Regulation 9.9.4 since other wording from 9.9.3 does. This should be looked into along with proposed Regulation 9.9.4 wording that includes "maximum coverage ratio shall not exceed 35%" whereas Section 5 Space Requirements calls for Town Residential zone lot coverage shall not exceed 15%.

Commissioners ask for a clean proposal drawn up with these changes which LUC Redmond will provide.

M. Szydlo **motioned** to continue discussion to the next Zoning meeting on Tuesday, October 9, 2018.

C. Kasey seconded the motion and it passed unanimously. Decision is due November 27, 2018.

**6. DISCUSSION/POSSIBLE DECISION – BUMPER BROOK ESTATES, LLC - PETITION FOR A ZONE CHANGE FROM LIGHT INDUSTRIAL TO A TOWN RESIDENTIAL ZONE, TWENTY-FOUR BUMPER ROAD, ASSESSORS MAP NOS. A8-03-0003, A8-03-0004 AND A8-03-0006.**

No discussion. This application follows the application for amending Zoning Regulations 2.3 and 9.9.

M. Szydlo **motioned** to continue with discussion at the next Zoning meeting on Tuesday, October 9, 2018, seconded by C. Kasey. Motion passed unanimously.

**7. COMPLAINTS/ENFORCEMENT ACTIONS.**

**FOLLOW UP ON COMPLAINTS: RALPH JOHNSON, 508 HILL ROAD**

**FERNANDO NIEVES, 222 WOODCHUCK LANE**

ZEO Tom Mitchell states he has nothing new to report on the complaint regarding Ralph Johnson, 508 Hill Road. He has been trying to reach Ron Conroy, who lives at the property and owns the commercial trucks that are located on the property and must be removed. There is also the matter of a shed placed on the property without proper permits. He will continue to try and contact Mr. Conroy.

Three neighbors from Meadowview Drive are present and state their belief that Mr. Nieves of 222 Woodchuck Lane is operating a business out of his home because he parks a pickup truck and a van with his business name on the door and has a small trailer also on a portion of his lot that faces Meadowview Drive. They are upset and believe that these vehicles are changing the character of their neighborhood and is in violation of Zoning Regulation 6.19 in that there is an outward appearance of a business being operated out of the home with the evidence of these vehicles. ZEO Tom Mitchell states that he finds no violations on the property and that the vehicles are not considered commercial vehicles because they do not exceed the gross vehicle weight of 19,500 pounds. He states that no action can be taken on the current complaints that he has received.

**8. ANY OTHER BUSINESS.**

M. Szydlo **motioned** to add to the agenda **Jared Braddock for driveway construction at 221 Bogue Road.**

D. Kovall seconded the motion and it passed unanimously.

Jared Braddock, Supreme Industries, is present and explains that the house is being reconstructed after a 2015 demolition. The Zoning Commission approved the rebuild on 11/14/17. Providing a copy of a Septic System Repair plan prepared by Robert Green Associates, 10/13/16, Mr. Braddock explains that a driveway exists (marked in green) on the west side of the house and is used to access to the walk out basement. The application is to request a second driveway, approximately 40 feet in length, on the east side of the house which has better sight lines. A driveway opening permit has been approved and is on file. D. Kovall **motioned** to approve the application, seconded by M. Szydlo. Motion passed unanimously.

LUC Redmond presents an application for **80 Rocky Road East** for a 20' x 20' addition to the back of the house for a family room. The property owner is requesting a waiver of a site plan and provided a sketch. There is no older site plan found in town hall. Commissioners review and agree that an engineered plan is required.

**9. CORRESPONDENCE.** None.

**10. INVOICES.** None.

**11. ADJOURN.**

C. Kasey **motioned** to adjourn the meeting at 8:50 p.m., seconded by N. Schnyer. Motion passed unanimously.

Respectfully submitted,

Polly Redmond  
Land Use Coordinator

RECEIVED FOR RECORD AT HARWINTON CT  
ON 9-26-18 AT 12:25 PM  
ATTEST NANCY E. ELDRIDGE TOWN CLERK