

ZONING COMMISSION
MONDAY, FEBRUARY 28, 2022
TOWN HALL 7:00 P.M.

Present: Cynthia Kasey, Deborah Kovall, William Ponte, Alternate Member Theodore Root, Alternate Member Dave Foster, Alternate Member Michelle Whitford, Zoning Enforcement Officer Don Truskauskas and Land Use Coordinator Polly Redmond

Also Present: First Selectman Michael R. Criss, Town Counsel Michael D. Rybak, Sr. and Michael D. Rybak, Jr.

Absent: Chairwoman Michelle Rewenko and Daniel Thurston

1. OPEN MEETING – ESTABLISH QUORUM.

Acting Chairwoman C. Kasey called the meeting to order at 7:00 p.m. All regular members are seated with Alternate Member T. Root seated for M. Rewenko and Alternate Member D. Foster seated for D. Thurston.

2. APPROVE MINUTES OF PREVIOUS MEETING: 2/14/2022

D. Kovall **motioned** to approve the minutes with amendment to page 2, line 4 to read as follows: Harwinton Association (with small lots and **challenging** septic soil that could never support this proposal) – omitting the word “horrible”. D. Foster seconded the motion and it passed unanimously.

3. PUBLIC COMMENT.

None.

4. COMPLAINTS/ENFORCEMENT ACTIONS.

ZEO D. Truskauskas informs the Commission that a complaint has been received from residents at 406 Clearview Avenue concerning a drainage issue. It may be a Wetlands Commission matter. He will inspect the matter tomorrow.

5. INFORMAL DISCUSSION:

Accessory Apartments – Review Draft Regulation

Discussion with First Selectman Michael R. Criss, Atty. Michael D. Rybak, Sr. and Atty. Michael D. Rybak, Jr. who are present at the request of the Commission.

Michael D. Rybak, Jr. distributes to Commissioners a draft proposal he wrote that the Commission could use if they choose to opt out of CT Public Act 21-29, Section 6, which governs the regulation of Accessory Apartments/Dwellings by Zoning Agencies. The draft reads, in part, that “that the existing Harwinton Zoning Regulations provide for a diversity of housing without creating an undue concentration of population or the creation of congestion on public highways while protecting public health, all of which would be negatively affected by the as of right approval process for accessory apartments as provided in Section 6 of Public Act 21-29.” The Act requires the opt out to be confirmed by a two-thirds vote of the Zoning Commission after a public hearing is held and within 65 days of the close of the hearing. The Commission must give reasons for their decision and state them in the record.

Public Act 21-29 requires towns in Connecticut to adopt or amend Zoning regulations to allow Accessory Dwelling Units (ADUs) as of right on the same lot as a single-family home unless they follow the Act’s opt out process. The Act specifies that these units will not count toward a municipality’s base housing stock calculation for purposes of the Affordable Housing Land Use Appeals Procedure (CGS § 8-30g); modifies the definition of ADU for purposes of the appeals procedure; and specifies that the addition of an ADU on a lot does not make the sewerage system a “community sewerage system”. If the Commission so chooses to opt out, the Resolution would then advance to the Board of Selectmen for their approval to opt out by a two-thirds vote.

Michael D. Rybak, Sr. states that the Commission can choose to opt out and decide to write their own rules and regulations on Accessory Dwelling Units under their own standards and allow them by Special Permit, but the Commission should make the regulation clear and as close to what the Public Act provides. He doesn't see a reason not to work on a regulation allowing caregivers and elderly parents to live in an Accessory Dwelling Unit. He again stresses that the Commission is sure to opt out first. It is acknowledged that the draft the Zoning Commission has been working on does not comply with the Act and therefore would not be acceptable.

The second part of Public Act 21-29 involves Section 4(d)(9) requiring municipalities to amend their land use regulations so as not to require more than one parking space for each studio or one-bedroom dwelling unit or more than two parking spaces for each dwelling unit with two or more bedrooms. Atty. Rybak, Sr. notes that this section is not limited to just Accessory Dwelling Units and requires the same procedure to opt out; holding a public hearing, stating the reasons for a decision, and then sending it to the Board of Selectmen for their approval to opt out by a two-thirds vote.

ZEO Truskauskas questions whether the Commission can opt out and keep what is presently in the Zoning Regulations under Accessory Apartments with Atty. Rybak, Sr. stating that the Act doesn't invalidate or address that. First Selectman M. Criss points out that these Accessory Dwelling Units do not count toward Affordable Housing and he has concerns that if the town opts to follow PA 21-29 and amend the regulations, if the language of the Act changes, the town would have to amend the regulations accordingly to those changes.

D. Kovall states that she sees nothing but problems with this Act and questions how this improves the quality of life within towns, as the Act has declared. T. Root questions First Selectman M. Criss on whether there's been pushback from other towns with First Selectman Criss answering that there is and notes that there are new bills coming out of legislature that involve housing.

Commissioners will place this item on their next meeting agenda set for March 14, 2022 at 7:00 p.m. to set a public hearing date to act on Public Act 21-29.

Cannabis Establishments – Temporary Moratorium 12/3/2021 to 12/3/2022

Commissioners discuss the Moratorium in place and the next steps of holding a public hearing to either prohibit Cannabis Establishments or allow. Atty. Rybak, Sr. states that the regulation to prohibit, if that's what the Commission votes to do, must be clear in its definition and that the language in the Moratorium, which includes the states definitions, could be used. The town can then create an Ordinance that would outline where the use of recreational marijuana would be prohibited.

6. INFORMAL DISCUSSION: Breweries – at the request of Robert Gagne, 295 Harmony Hill Road.

Mr. Gagne is present and provides a copy of the Town of Burlington's Zoning Regulations on Breweries and Farm Breweries that he is considering as a submission and proposal to amend the Harwinton Zoning Regulations to include. He explains that he recently built a 36' x 48' barn in June of last year and with his plan to grow hops on his property this spring, he would like to use the barn as a brewery where the beer will be made commercially and served to the public. He has 18 acres of land where he notes that only a couple of acres would be used to grow the hops which in turn would limit the amount of beer he would serve/sell and the days and hours of operation. He is only interested in being open Fridays through Sundays and explains that customers who come in would generally not linger. He refers to breweries in other towns that place a limit on the number of beers that can be served to an individual. Commissioners agree that the growing and processing of hops is an agricultural operation but the selling of the product makes it a commercial operation. If the proposed amendment and application to the Zoning Regulations is approved, it would be under a Special Permit use and would require building and fire code compliance and

have conditions put in place. Mr. Gagne is instructed to create the wording for the proposed regulation that he wishes to submit with an application and fee.

The Commission would set a public hearing where property owners within 200 feet of all property lines of 295 Harmony Hill Road would be noticed by Mr. Gagne giving information of the proposal and hearing date. At the hearing, discussion will take place on actual wording for the regulation, input from the public would be heard, and Town Counsel would be consulted for a legal opinion.

7. **ZONING COMMISSION ACTION – at the request of the property owner, Parcel 8, LLC, extend site plan approval for construction of commercial building, Post Office Plaza, 122 Litchfield Road, to 2/27/27 in accordance with State Statute 8-3(i). Site plan, originally presented by previous owner, Carl Coppola, approved 2/27/12, renewed to 2/27/22 at the request of then owner Christos Glynos. D. Kovall **motioned** to extend the site plan approval to February 27, 2027 at the request of the applicant, seconded by T. Root. Motion passed unanimously.**

D. Kovall **motioned** to add to the agenda, **Theodore Root, Jr. – Change of Use application, 300 Litchfield Road**, seconded by W. Ponte. Motion passed unanimously.

D. Truskauskas and T. Root, Sr. disclose that they also have an interest in the property at 300 Litchfield Road. T. Root, Jr. states that the property housed a dentist office for many years and a florist some time ago. He proposes to bring his business as an IT Management Service provider to the property which will employ 2-3 people with most of their work done off site. TAHD has been contacted to inform them of the change of use. D. Kovall **motioned** to approve the change of use, seconded by W. Ponte. Motion passed unanimously.

8. **ANY OTHER BUSINESS.**

None.

9. **INVOICES.**

None.

10. **ADJOURN.**

W. Ponte **motioned** to adjourn the meeting at 8:30 p.m., seconded by D. Foster. Motion passed unanimously.

Respectfully submitted,

Polly Redmond
Land Use Coordinator

