

**HARWINTON ZONING COMMISSION**  
**MONDAY, SEPTEMBER 11, 2023**  
**TOWN HALL 7:00 P.M.**

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

**PLEDGE OF ALLEGIANCE**

**1. OPEN HEARING ESTABLISH QUORUM.**

Chairman D. Thurston called the meeting to order at 7:00 p.m. All regular members present are seated.

**2. APPROVE MINUTES OF PREVIOUS MEETING: 8/14/2023 AND 8/28/2023**

C. Kasey **motioned** to approve the minutes of 8/14/2023, seconded by T. Root. Motion passed unanimously with D. Thurston and W. Ponte refraining from voting due to their absence at the 8/14/2023 meeting.

W. Ponte **motioned** to approve the minutes of 8/28/2023, seconded by D. Kovall. Motion passed unanimously with C. Kasey not voting due to her absence at the 8/28/2023 meeting.

**3. PUBLIC COMMENT.**

None.

**4. CHARLES AND HEATHER PELLETIER – APPLICATION FOR 14' X 16' ADDITION, 43 BULL ROAD. REQUEST FOR WAIVER OF ENGINEERED PLAN.**

Heather Pelletier is present and has submitted a written request for waiver of an engineered plan. A 2018 Site Plan prepared by Berkshire Engineering titled B100a Reserve Septic Plan for Brett Stone, (previous owner of 43 Bull Road) is used to show the 14' x 16' addition situated 60 feet from the front yard property line and 47 feet to the right side property line. IWWC and TAHD approvals have been received. T. Root **motioned** to grant the waiver request of an engineered plan, seconded by W. Ponte. Motion passed unanimously. W. Ponte **motioned** to approve the application, seconded by T. Root. Motion passed unanimously.

**5. ANN MARTEL – APPLICATION FOR SPECIAL PERMIT FOR ADDITION OF ACCESSORY APARTMENT, 311 BURLINGTON ROAD.**

Ann Martel is present and provided one copy of a site plan prepared by Roy V. Cheney, L.S. titled Limited Property/Boundary Zoning Location Survey for 311 Burlington Road, dated July 2023. The plan shows the proposed 20' x 40' addition to the home for use as an accessory apartment to include a bedroom, living room, bathroom and kitchen. It is determined that the proposed 800 square foot accessory apartment does not meet Zoning Regulation 9.3.1 which states the apartment shall be no larger than one third of the floor area of the principal use. The living space of the home is 2,008 square feet therefore requiring the apartment to be reduced in size to approximately 660 square feet. IWWC and TAHD approvals have been received. Ann Martel is advised to return to the Zoning Commission with a revised plan and one that shows dimensions of the accessory apartment addition.

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

Leonard Lopardo is present stating that he received notice from Eversource on 8/15/2023 stating that the lights are two weeks out upon delivery to Sunset Ridge. He states that his engineer, Todd Parsons, is ill but a letter will be provided by him regarding the swale adequately providing drainage with the absence of Catch Basin 18. Mr. Lopardo states that by leaving the swale natural, the land will be recharged with water as opposed to making a swale with hydraulics that will produce more swift running water.

An email from Town Counsel, Michael D. Rybak, was received in the Land Use office on 9/8/2023 stating that Mr. Lopardo had reached out to him regarding the Zoning Commission's 8/28/2023 decision to deny a site plan modification to substitute a drainage swale in place of Catch Basin 18. Atty. Rybak explained to Mr. Lopardo that the Zoning Commission is his client and that he couldn't advise him on how to proceed but that he was free to request reconsideration of his application for modification of the site plan at the next Zoning meeting. LUC Redmond informed Atty. Rybak that there was no "application" submitted by Mr. Lopardo, only a revised site plan to "Delete CB#18, Revise Leakoff Near Unit #27" and a verbal request by Mr. Lopardo that the Commission consider the revision. Atty. Rybak wrote back stating that "the request to modify the site plan should be in writing and formally considered by the Zoning Commission and that the Commission can hold a public hearing if they want public input and engineering opinion in the record. Otherwise, it can be noticed on the agenda, considered at a meeting, with written notice or decision and legal notice published. Either way, the Commission must give a collective reason for its decision."

T. Root explains that Len Lopardo told the Commission at a previous meeting that he would put in Catch Basin 18. With many concerns being voiced by the residents, he believes they will look to Zoning for answers when Mr. Lopardo is gone upon completion of the development. T. Root believes the catch basin ties in with the walking trail and when it was designed, that's what the engineer thought. He would like to see everything installed that was proposed on the site plan and afterwards, whatever the residents want or don't want, they can change.

Mr. Lopardo states that he would agree if the changes were a positive but notes that the walking trail is far away from some resident's homes, some at 80 feet away, and others have the trail in their backyard. He states he is not trying to "cheap out" by eliminating the walking trail but he, and some residents, are worried about security with the trail being so close to homes. L. Busse, Acting President of the unofficial Sunset Ridge Association, 15 Hannah Way, wrote in an email to LUC Redmond that the residents don't want to continue the walking path because of the cost to maintain it, the cost to insure it, the steepness of the walkway being a concern, non-residents using it, and due to the safety factor that the trail runs behind houses they would be exposed to burglars with easy access to get away, especially on the Fairlawn Drive side in Torrington.

William Foster, 6 Hannah Way, states that on the trail behind his house he saw teens on electric bikes traveling past. The elimination of a portion of the walking path is for a security reason and to keep others outside of the development from using it. He notes that the main concern though is the flooding that is happening within the development, and especially with today's rain. The drain in front of his house was working but the one in front of Terry Foley's at 13 Hannah Way was not. He states that engineers come up with calculations for drainage but balancing is not always correct. The flooding within Sunset Ridge can't even be fixed so he would rather not see another issue be opened up with the elimination of Catch Basin 18. If this catch basin is eliminated, the water is going to end up on Fairlawn Drive. He adds that the catch basin at the end of Ross Drive isn't working now.

Mr. Lopardo states that new construction is always a work in progress and the amount of rain the state has seen is unprecedented but in areas that lack curbing, that has a direct effect on drainage.

Lillian Busse, 15 Hannah Way, produces photos showing the effects of today's rain within the development noting that the area between her house and the Foley's was completely flooded and caused accumulated silt at the end of the street. Mr. Lopardo states again that the road has no curbing to stop sheet flow but with the completion of the last two houses being built, that will help alleviate this flooding.

In regards to Catch Basin 18, Mr. Lopardo states that he will put it in and include the swale but the walking path should be eliminated since the residents don't want it as it would be expensive to maintain.

D. Kovall questions whether the walking path sits on a berm with Lillian Busse answering, yes, in some places. D. Kovall states that the original 2006 proposal was designed by Lenard Engineering (Todd Parsons, P.E.) for management and development of this property, that it is a complete package with each component put in for a reason, and this is the reason she is in favor of the original design being built now.

Mr. Lopardo asks, why not accommodate the residents by putting in the swale but not the walking path due to the maintenance cost factor and the privacy factor? ZEO D. Truskauskas suggests that perhaps the walking path could be a grass trail but adds that grading of the berm and swale is the critical piece.

William Foster, 6 Hannah Way, states that he maintains the part of the walking path that is directly behind his house, keeping it natural. Each resident would take care of their own piece of trail that is behind their house. If they don't want to maintain it, they don't have to. ZEO D. Truskauskas states that the swale will need to be maintained though.

Lillian Busse, 15 Hannah Way, in referring to her photos, shows the walking path and what it looks like now. She states she is not sure how the walking trail became the berm.

Mr. Lopardo states that he will submit an application for Modification of a previous Zoning approval and accompany the application with a site plan showing the changes. He will also provide a Modified Landscaping Plan.

Teresa Foley, 13 Hannah Drive, states that the catch basin above her, Catch Basin 18, should be put in as noted on the original plans.

Shirley Amundsen, 25 Hannah Drive, agrees that the catch basin should be put in and also a berm down to Ross Drive along with curbing which would help divert water down the road.

T. Root states that the Modification will be for the berm only and that Catch Basin 18 will be installed with Mr. Lopardo confirming this. T. Root states that he would like to see the plan from the engineer showing how it will work with the catch basin and with the walking path.

Commissioner Deborah Kovall recuses herself at this time.

## **7. COMPLAINTS/ENFORCEMENT ACTIONS.**

### **PETER HOCK – DISCUSS COMPLAINT AGAINST HIM REGARDING KEEPING OF ANIMALS, 797 HILL ROAD.**

William Kovall, 789 Hill Road, is present. ZEO D. Truskauskas acknowledges that Atty. Kent Mancini, Cramer & Anderson, Litchfield, CT, is present to hear any questions Commissioners may have but that he was originally asked to only give his opinion pertaining to whether the spouse of a Zoning Commission member may offer testimony or evidence at a hearing before the Commission when the member has recused themselves. He gave his opinion on this in a letter dated 8/23/2023 to ZEO D. Truskauskas with all Commissioners receiving a copy.

C. Kasey would like to have a determination on the definition of "raised on property" as noted in Zoning Regulation 4.1b Permitted Uses in Residential Zones that states, "Agricultural and horticultural uses, provided only the slaughtering of livestock and poultry *raised* on the premises shall be permitted." At the 7/24/2023 Zoning meeting, Mr. Hock questioned whether he could bring an animal on to the property, keep it for a week, and then slaughter it, with the Commission stating no, that is not "raising" the animal.

William Kovall states that there is a required 300 foot separating distance from any pigsty to the nearest residence by state code and Mr. Hock is not meeting that. William Kovall states he contacted Torrington Area Health who said they might pursue this.

M. Whitford, who was not at the last Zoning meeting, refers to the Zoning meeting minutes of 8/28/2023 where she reads that Mr. Hock said the business, Delicias da Fazenda, is being terminated but that Mr. Kovall stated that only the business name was changed to Cedar Hill Farm and registered with the state in May. She questions whether the property is still operating as usual.

Atty. Mancini has made note of Commissioner questions and comments and will reach out to either ZEO Truskauskas or LUC Redmond for any additional information he may need.

Commissioner Deborah Kovall is reseated.

### **THIRD COMPLAINT RECEIVED FOR AN AIRBNB OPERATION AT 48 ROCK BROOK ROAD.**

As was the case at the previous Zoning meeting, another complaint has been received in the Land Use office of an Airbnb operation at **48 Rock Brook Road**. It is believed that the property owner, Li Meng, is renting out rooms by the night, week, or month and is listed on an Airbnb website. It has been mentioned that the property owner does not live in the house. ZEO D. Truskauskas reached out to town counsel, Michael D. Rybak, who gave the opinion that the town's Zoning Regulations do not have an outright prohibition on short-term rentals in residential zones and that, depending on the circumstances, such uses arguably qualify as a residential dwelling, a bed and breakfast, or a home occupation. Atty. Rybak's opinion went on to say that zoning enforcement is also difficult without specific regulations to guide the Zoning Commission and the Zoning Enforcement Officer. He recommends that the Zoning Commission consider regulations applying specifically to short-term rentals consistent with the Plan of Conservation and Development.

#### **8. ANY OTHER BUSINESS.** None.

#### **9. INFORMAL DISCUSSION – PROPOSED ZONING REGULATION AMENDMENTS.**

Following up on discussion from the 8/14/2023 Zoning meeting as to whether a public hearing is required to be held each time a new tenant comes into a multiple use retail service/light industrial existing establishment. D. Kovall believes that the Commission should either follow the regulation that requires the holding of a public hearing or clarify and amend the regulations stating that it does not. Commissioners asked LUC Redmond to get clarification from Town Atty. Michael D. Rybak who wrote an opinion stating that this is a question of regulation interpretation and application by the Zoning Commission. If the Commission wishes to allow for a public hearing with notice to the neighbors and be able to impose reasonable conditions as to hours of operation, lighting, signs, parking, etc., then this can only be done through the special permit regulations. He did note that past uses that may not seem like a changes of use, i.e., grocery store to luncheonette and changes within the same group of uses, could simply require a zoning permit/change of use while a change of use from one group to another should require a public hearing.

#### **10. COMPLAINTS.**

A complaint has been received from Terrence & Allison Grella, 376 Clearview Avenue, of activities performed by their neighbor, Mark Gelormino, 372 Clearview Avenue, who has cleared a 20 foot swath of vegetation along 60 feet of the property line they share resulting in silt and rain runoff from the Gelormino driveway into the clearing and directly onto the Grella property. The Grella's are now experiencing flooding in their backyard. ZEO D. Truskauskas states that he will contact Mr. Gelormino and ask him to install silt fence/haybales. T. Root questions whether this is a civil matter with ZEO Truskauskas stating that the town can address the silt runoff matter but not the water issue. T. Root advises ZEO Truskauskas to contact Mark Gelormino asking him to fix the issue and ask that silt fence/haybales be put in.

**11. CORRESPONDENCE.**

None.

**12. INVOICES.**

None.

**13. ADJOURN.**

W. Ponte **motioned** to adjourn the meeting at 9:00 p.m., seconded by D. Kovall. Motion passed unanimously.

Respectfully submitted,

Polly Redmond  
Land Use Coordinator

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RECEIVED  
SEP 14 2023  
HARWINTON  
TOWN CLERK