

HARWINTON ZONING COMMISSION MONDAY, OCTOBER 23, 2023 TOWN HALL 7:00 P.M.

Present: Chairman Daniel Thurston, 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

Kent Mancini, Cramer & Anderson, Town Counsel for the matter of Peter Hock (Item 4) is also present.

Absent: Alternate Member Victoria Elliot

PLEDGE OF ALLEGIANCE

1. OPEN HEARING ESTABLISH QUORUM.

Chairman D. Thurston called the meeting to order. All regular members present are seated.

2. APPROVE MINUTES OF PREVIOUS MEETING: 10/10/2023

Alternate Member D. Foster is seated for Regular Member T. Root at this time for approval of minutes.

T. Root and W. Ponte were not in attendance at the previous meeting.

D. Foster **motioned** to approve the minutes of the previous meeting, seconded by C. Kasey. Motion passed unanimously with W. Ponte abstaining.

D. Foster is unseated and T. Root is now seated.

3. PUBLIC COMMENT. None.

T. Root **motioned** to amend the agenda to take up Item 5 and Item 6 before Item 4, seconded by C. Kasey. Motion passed unanimously.

5. KEITH & BETH DABLAIN – APPLICATION FOR 30' X 36' DETACHED GARAGE AND DRIVEWAY CONSTRUCTION, 320 HARMONY HILL ROAD.

Keith Dablain is present. Plans prepared by Clark Land Surveying, LLC, Bristol, CT, titled Zoning Location Survey, 11/2/2022, are reviewed. IWWC and TAHD approvals have been received. The proposal includes a new 185-foot long gravel driveway. Driveway opening permit received. T. Root **motioned** to approve the application, seconded by W. Ponte. Motion passed unanimously.

Work will be done by Autumn Contracting (ZEO Don Truskauskas), therefore, an acting Enforcement Officer must be appointed.

6. JOHN & CINDY LECLERC – APPLICATION FOR 18' X 36' INGROUND POOL, 719 HILL ROAD. REQUEST FOR WAIVER OF ENGINEERED PLAN.

John Leclerc is present. Plans prepared by D'Amico Associates, Surveying & Engineering Consultants, Oxford, CT, titled Proposed Pool Plan, 10/13/23, are received and reviewed and a waiver request is no longer required. IWWC and TAHD approvals have been received. T. Root **motioned** to approve the application, seconded by W. Ponte. Motion passed unanimously.

Item 4 is taken up for discussion at this time.

Commissioner D. Kovall recuses herself at this time. Alternate Member D. Foster is seated for D. Kovall.

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

Peter Hock is present along with his attorney, William Conti. Commissioners conducted a Special Meeting/Site Walk of 797 Hill Road on September 16, 2023. Atty. Conti informs the Commission that most of the manure [pile] is gone in spite of the rain. His client believes the activities taking place on the property are pre-existing uses. Atty. Conti states that since this is for "discussion" purposes only, perhaps the ZEO can determine if Mr. Hock is in compliance though he isn't sure if Atty. Kent Mancini would agree with this.

ZEO Don Truskauskas states that the onus is on Mr. Hock to prove that the activities taking place are pre-existing with Atty. Conti replying that doing so will take time, including title work.

William Kovall, 789 Hill Road, complainant, reminding the Commission that they had asked Atty. Mancini to look into the building that houses animals and whether it is in compliance with the setbacks for keeping of animals for business purposes, which requires a 150-foot setback. Atty. Mancini responds stating that there is a map found in the Land Use office that has two measurements marked for the setback of what was the barn location and now replaced with a Quonset type building after the barn was destroyed by fire. One of the distances on the map is crossed out and another distance is penciled in with the signature of Robert Green, L.S, Robert Green Associates, who provided the survey. Atty. Mancini states that he can't make a finding on what the distances are to the property lines. William Kovall asks, if the map is correct with the distance not meeting the required setback, is there a case to not have the building there with a wholesale business being operated out of it? Atty. Mancini states that it is the Commission who is to make that decision regarding the business. William Kovall states that the activity taking place at 797 Hill Road is not a farm stand, as Mr. Hock has previously claimed, as items being sold are being brought in.

C. Kasey questions the meaning of “raising” animals in relation to Permitted Uses under Zoning Regulation 4.1.b that reads: “Agricultural and horticultural uses, provided only the slaughtering of livestock and poultry raised on the premises shall be permitted.” Atty. Mancini states that the definition of “raising”, “born and raised”, is not in the Zoning Regulations. “Produced” on the farm is there but that is different from “raising”.

Atty. Conti again claims that the activities taking place on the Hock property are pre-existing. LUC Redmond asks when Delicias da Fazenda registered as a business with the state under the Hill Road address with Atty. Conti claiming that it is the “use” of the property this is pre-existing, not “who” is doing the use. He states that the property was always used as a market, butchering of animals and raising of animals.

William Kovall states that the twelve pigs, or more, are not for personal use, they are for a wholesale business and that the business, Delicias da Fazenda, still exists even though Atty. Conti told the Zoning Commission that it was disbanded. He adds that the pigs being kept on the property do not meet the distance of 300 feet for the enclosure, which is law. ZEO D. Truskauskas states that the distance for pig enclosures is a Health Department code and not something the town can enforce. William Kovall states that the town should be able to enforce based on state code.

C. Kasey refers to the site walk that took place on September 16th and notes that there was no evidence of where any of the produce offered for sale was being grown on the property.

T. Root questions ZEO Truskauskas if it is his determination to measure the building housing the animals to the property line with ZEO Truskauskas stating that he did measure the distance and it came out to be over 150 feet from the structure to the property line abutting the Kovalls. William Kovall states that measurement must be taken between the buildings and that topography should be taken into account for true measurement as one cannot include distances that include sloping of land.

D. Foster states that the building housing the animals was permitted as a temporary structure (Quonset hut style building) in 2020 for storing hay after the Hock barn burned down. The temporary structure sits on the same footprint as the barn with Mr. Hock stating that the Quonset style building is actually five feet larger in the back from where the original barn sat and is 30' x 65', not 30' x 60'. LUC Redmond notes that a building permit for the “temporary” structure was never taken out.

Atty. Conti states that he and his client will gather evidence and return to the November 13, 2023 Zoning meeting.

ZEO Truskauskas informs Peter Hock and Atty. Conti that they must show evidence/proof that everything that is taking place on the property has been taking place prior to Zoning in 1955. T. Root questions if that includes the building that is housing animals with ZEO Truskauskas answering, yes.

William Kovall questions why the A2 done by Robert Green Associates is not sufficient since in using that, the location of the barn shows that it doesn't measure 150 feet to the property line. Atty. Conti, once again, states that everything is pre-existing with W. Kovall stating that the business taking place on the property now is not pre-existing.

LUC Redmond informs Commissioners that the barn that burned down was applied for through application in front of the Zoning Commission on December 10, 1990. She provides minutes from that meeting found in the land records that state the following: Application: Peter Hock, Erection of Barn, Hill Road. *"Applicant appeared and explained, with maps, proposal to erect barn to house animals and some machinery; no business to be conducted from barn."* Atty. Conti requests that a copy of those minutes be sent to him. Atty. Mancini, Zoning Commissioners and ZEO Truskauskas will also be sent copies.

William Kovall questions Commissioners that on the day of their site walk on September 16, 2023, did they see poultry on the property with C. Kasey answering, yes. W. Kovall states that the Zoning Regulations call for a 300-foot distance to a property line for keeping of poultry in connection with conducting a business. The Hock property is only 300 feet wide so it is not meeting that regulation as well.

Commissioners will take discussion up again at the next Zoning meeting scheduled for November 13, 2023.

Commissioner D. Kovall is reseated at this time. Alternate Member D. Foster is unseated.

7. LILLIAN BUSSE, 15 HANNAH WAY – DISCUSSION ON OUTSTANDING WORK TO BE COMPLETED WITHIN SUNSET RIDGE DEVELOPMENT.

Lillian Busse, 15 Hannah Way, provides Commissioners with a 25-page packet of photos with descriptions and statements for each photo and reviews each page with the Commission. A punch list of items not completed by Len Lopardo has been emailed to the Land Use office from Lillian Busse outlining items still not done on the list she submitted 9/10/2023 and includes: detention pond, no street lights, no curbing, no documentation that the road is to town standards, catch basin and swale, remaining landscaping, weeds, grading, topsoil and seed disturbed areas, mudslides and other erosion sites.

Len Lopardo is present and provides a revised plan dated 10/23/2023 to accompany the application for Modification approved at the 9/27/2023 Zoning meeting. Revisions to the plans is not only to Restore Catch Basin #18 but is to also amend the location of the drainage swale behind Units 24 & 26. LUC Redmond had written a decision letter to Mr. Lopardo that was to be mailed out October 2, 2023 but after a significant rain event within Sunset Ridge at the end of September it was thought to review with the Zoning Commission once again. At the Zoning Commission's 10/10/2023 meeting, discussion was held and agreed upon for the relocation of the swale to be further north and away from Units 24 & 26 than what was proposed in the 9/22/2023 revised plans. Commissioners asked that a revised plan showing the new swale location be submitted and now that it has been received, LUC Redmond will send out the letter to Mr. Lopardo referencing the most current revision date on the plans.

ZEO D. Truskauskas wishes to confirm that drainage from Units 26 & 27 will be tied into the catch basin and pipe and that this shall be shown on the final as built. Mr. Lopardo is in agreement. An as built of the Drainage & Site Grading Plan (Sheet C2) must be submitted as well as other sheets of plans submitted.

T. Root asks Mr. Lopardo to attend the next Zoning meeting on Monday, November 13, 2023 at 7:00 p.m. with his engineer, Todd Parsons, Haley Ward, since he will be the one signing off on the as built.

*Zoning minutes of 10/10/2023; Mr. Lopardo was to contact GM2 Associates, surveyors of Sunset Ridge, to provide information on the slope to the east that was compromised in the end of September rain event.

T. Root also addresses Mr. Lopardo stating that all modifications that had been done within this development were done between Mr. Lopardo and the residents. They did not come before the Zoning Commission and this modification for the swale location is the only time an application for such modification was made. There was never a formal process to modify previous changes and no guidance from Todd Parsons, P.E.

Dennis Busse, 15 Hannah Way, refers to page 23 of Lillian Busse's packet of photos noting that the hill being shown in the photo probably was not compacted and that is why it came down in the heavy rains.

William Foster, 6 Hannah Way, states that the plantings did not cause the erosion of the hill as Mr. Lopardo has claimed with ZEO Truskauskas stating he is in agreement with that.

Len Lopardo submits photos of Highfield Drive in Torrington showing water in the street that he says is the cause of water entering Sunset Ridge and creating drainage issues.

Marilyn Glasser, 6 Lauren Lane, questions that if the water is coming from Highfield Drive, shouldn't that have been taken into consideration when building these homes? LUC Redmond questions if anyone has ever contacted Torrington officials about the water with Mr. Lopardo stating they are aware of the water runoff. ZEO Truskauskas states that he reached out to Nate Nardi-Cyrus, Torrington Asst. City Planner, asking if there has been any enforcement on this problem but he hasn't heard back from him.

LUC Redmond questions who is responsible for erosion control including the mudslide that happened behind 31 Hannah Way. If the site is still open and the special permit and site plan has been extended to 2026, and the Soil & Erosion Control Permit is in Len Lopardo's name, wouldn't it be Len Lopardo? LUC Redmond will contact Town Counsel, Michael Rybak regarding this.

8. COMPLAINTS/ENFORCEMENT ACTIONS.

None.

9. ANY OTHER BUSINESS.

None.

10. INFORMAL DISCUSSION – PROPOSED ZONING REGULATION AMENDMENTS.

Tabled.

11. CORRESPONDENCE.

None.

12. INVOICES.

None.

13. ADJOURN.

W. Ponte **motioned** to adjourn the meeting at 9:20 p.m., seconded by T. Root. Motion passed unanimously.

Respectfully submitted,

Polly Redmond
Land Use Coordinator

