

Present: Chairman Daniel Thurston, Secretary Theodore Root, William Ponte, Deborah Kovall, Alternate Member Dave Foster, Alternate Member Victoria Elliot, Alternate Member Stephen Smith, Land Use Coordinator Polly Redmond and Zoning Enforcement Officer Don Truskauskas
Also Present: Atty. Kent Mancini, Cramer & Anderson for the Town of Harwinton
Absent: Michelle Whitford

PLEDGE OF ALLEGIANCE

PUBLIC HEARING

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, LAKE HARWINTON ASSOCIATION ZONE.

Kevin McGivern is present. LUC reports that legal noticing of this hearing was published in the Republican American newspaper on 12/29/23 and 1/5/24. Mr. McGivern submitted copies of proof of mailings to neighbors within 200 feet of his property lines giving notice of this hearing. Originals of these are to be submitted to the Land Use office. LUC Redmond questions Mr. McGivern on the size of the accessory apartment with Mr. McGivern replying, 425 square feet. LUC Redmond informs him that 450 square feet is required by Zoning Regulation 9.3.1. Mr. McGivern replies that in answering the question he did not count the bathroom, that he reports being 28 square feet, or a closet in a room that is 27 square feet. Mr. McGivern states that the two-bedroom accessory apartment will be for his son and that the main house has one bedroom for he and his wife. Parking required by Zoning Regulation 9.3.5 for the accessory apartment can be met. T. Root, in reviewing the architectural drawings, states that to be in compliance with Zoning Regulation 9.3.8 the drawings must be originally sealed by an architect registered in Connecticut. The floor plans provided by Mr. McGivern are by Apex Homes of PA, LLC. Mr. McGivern states that the State of CT had to review and approve the plans because the architect he hired is only licensed in Pennsylvania. T. Root states that before the hearing is closed, the Commission will want to see that paperwork from the State of CT.

Chairman D. Thurston opens the floor to public comment at this time.

Todd Werner, 38 Lake Shore Drive, refers to Zoning Regulation 9.3 that states an accessory apartment is permitted “under special circumstances related to the need of the owner/occupant of the single-family dwelling” and asks, what is Mr. McGivern’s hardship? He also believes that accessory apartments shouldn’t be added to new construction of homes but should be applied for after a house is completely built. Lastly, in referring to Zoning Regulation 9.3.10, he states that he would like to see the preservation of the natural character of the neighborhood.

Paul Rosin, President of the Lake Association, 14 Beach Drive, states that Mr. McGivern came before the Board of Governors with a proposal to take some trees down and build a house at 91 Catlin Road. Lots were conveyed between Mr. McGivern and the Lake Harwinton Association and at that time there was no discussion of a 3000 square foot house to be built and no discussion of an accessory apartment. He refers to Mr. McGivern receiving a variance from the Zoning Board of Appeals to build the 3000 square foot house because it did not meet the setbacks and states that no notice was given to the Lake Association of the public hearing and it was only found out about the accessory apartment when two mailboxes were put up and two electrical boxes were installed. Mr. Rosin states that the house Mr. McGivern built does not fit in with the houses on the lake and that the Association wants to see the neighborhood remain low key.

Lisa Sadler, Pine Ridge Drive, states that she previously reviewed the floor plans and wants to be certain that the Torrington Area Health District approved the plans for an accessory apartment and not just a three-bedroom home. LUC Redmond will contact TAHD to verify.

Mr. McGivern states that there is now only one meter on the house but two mailboxes remain with the address of the accessory apartment being 91A Catlin Road for his son to receive mail and that this was cleared with the post office.

3. CONTINUE OR CLOSE HEARING.

T. Root **motioned** to continue the public hearing to Monday, January 22, 2024 at 7:00 p.m. in order to receive the original proof of certified mailings and also to receive State of CT approval of the architectural drawings.

D. Kovall seconded the motion and it passed unanimously.

REGULAR MEETING

1. OPEN MEETING – ESTABLISH QUORUM.

Chairman D. Thurston called the meeting to order at 7:28 p.m. All regular members present are seated with Alternate Member D. Foster seated for M. Whitford.

2. APPROVE MINUTES OF PREVIOUS MEETING: 12/11/2023

W. Ponte **motioned** to approve the minutes of the previous meeting, seconded by T. Root. Motion passed unanimously.

3. ZACH PIRRELLO – APPLICATION FOR RETAINING WALL, 63 BIRGE PARK ROAD.

Zach Pirrello is present and explains that he would like to construct a new wall along the front property line that would fall just outside of the 100-foot front yard setback. The wall would be 12 feet high and behind it he would place fill, using material from the property, to level off an area where more display shed can be placed.

T. Root states that as long as the wall is engineered properly and the sheds being placed down remain temporary, he believes no application is needed and the wall can be built. Mr. Pirrello states that the wall will be engineered by United. Mr. Pirrello informs the Commission that he will be adding a 6' x 32' overhang with footings to the existing building and is seeking approval from the Commission. An application for this activity is on file. T. Root **motioned** to approve the application for the overhang, seconded by W. Ponte. Motion passed unanimously.

4. KELLY CYR – APPLICATION FOR SPECIAL PERMIT FOR HOME OCCUPATION, DOG GROOMING BUSINESS, 282 WILDCAT HILL ROAD.

Kelly Cyr is present explaining that she wishes to conduct a dog grooming business in the basement of her home. She is proposing to groom three dogs a day a couple of days a week. TAHD approval has been received. T. Root **motioned** to accept the application and set a public hearing for Monday, January 22, 2024 following the continuation of the McGivern public hearing. Motion was seconded by D. Kovall and passed unanimously.

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

No discussion.

Commissioner Deborah Kovall recuses herself at this time. Alternate Member Stephen Smith is seated.

5. PETER HOCK – DISCUSSION OF COMPLAINT AGAINST HIM REGARDING KEEPING OF ANIMALS, 797 HILL ROAD.

Peter Hock is present with his attorney, William Conti, Conti, Levy, Salerno & Antonio, LLC, Torrington, CT who submits three additional letters in support of Mr. Hock's farming activity. The first letter is from Michael Audet, 70 Locust Road, Harwinton, who writes that he has been doing business with Peter Hock for the past 35 plus years, selling him cattle and feed and that Peter buys [from him] corn silage and hay to feed his herd. A second letter is from Brian Brickett, 350 North Main Street, Thomaston, who writes that he has accompanied his father several times throughout the years to the farm, starting back in 1988, and would deliver hay to Peter and purchase piglets and chickens [from Peter] to raise on the farm his father rented from Joe Funk on Hill Road in Harwinton. The third letter is written by Joyce Leifert, 111 Litwin Road, Litchfield (disclosed by Atty. Conti to be Peter Hock's sister) who writes that Cedar Hill Farm has always sold eggs, vegetables, chickens, pork and

beef. She writes that her father had many customers, mostly people he worked with, who have since passed. She writes that they have always bought off the farm and taken the meat to be processed and she now buys from Peter who has continued on with the farm and that it has always been a farm back to the 40s when her father bought it.

D. Foster states that the barn housing animals is 116 feet to the side property line and was approved and built in 1990. Zoning Regulations of 1988 allowed for structures housing animals to be 50 feet to the side property line when the animals were primarily for the benefit of the occupants and not in connection with any business. Mr. Hock replies that the Zoning Commission, at that time, approved the location with T. Root stating that it was permitted because there wasn't a commercial use connected to the barn. T. Root reads the Zoning minutes of December 10, 1990 where Mr. Hock stated that "no business would be conducted from the barn." Atty. Conti states that Mr. Hock contends that he stated this because the barn was not to be used for the gravel operation that was taking place on the property and that the barn built in 1990 was never used commercially.

T. Root states that if the Mr. Hock claims that the farming activity conducted on the property is a business, he should provide documentation, not letters from family and friends, on the specifics of what was and is being bought and sold. LUC Redmond questions where customers go when they stop in at the property to shop with Mr. Hock stating, at the barn. LUC Redmond questions Mr. Hock if he slaughters animals on site with Mr. Hock replying that he does slaughter but does not butcher the animals, that animals go to a butcher like Plymouth Meats after he slaughters them. LUC Redmond questions if the use of the property has intensified over the years with Atty. Conti replying that some years are better than others so, yes, some years the use is intensified.

D. Foster states that the first issue to address is that the barn, when approved, was not going to be used as a building for business. Atty. Conti states that the barn is an agricultural use. ZEO Truskauskas suggests that the smaller barn on the property, shown to be 20' x 30' on a copy of a Subdivision Plan from 1987 prepared for Conrad Hock and measured to be 166 feet to the side property line, be used for keeping of the animals on the property and connected to a business since it would meet the 150-setback requirement on the north side abutting the Kovalls. That this smaller barn has been there since 1958 and doesn't need to meet the 150-foot side yard setback on the south side as it's grandfathered in. ZEO Truskauskas states that when Mr. Hock rebuilds the 36' x 60' barn that burned down (now a "temporary" Quonset type building), he could place the new barn 150 feet from the side yard and would be in compliance for keeping animals as a business. Atty. Conti states that the use of the property is still an existing use with Mr. Hock claiming that agriculture is a business.

William Kovall, 789 Hill Road, complainant, states that the manure pile on the Hock property is still on the property line he shares with Mr. Hock and adds that a business is being operated out of the property that is not to the benefit of the occupants/owners of the property. Mr. Hock claims that "these people", [meaning Delicias da Fazenda] work for him and that they will be helping him garden. Mr. Hock states that he sells his product to Delicias da Fazenda and "what they do with it is their business." D. Foster wishes to verify what Mr. Hock just said in that someone else is selling Mr. Hock's product.

LUC Redmond suggests that Mr. Hock add his name as an Agent to the State of CT Certificate of Organization for Delicias da Fazenda, that way he will be part owner of the business. Mr. Hock states that he will move everything to the smaller barn and will have the State of CT Certificate of Organization amended to add his name. ZEO Truskauskas states that once Mr. Hock informs him that the animals are relocated to the smaller barn, he will visit the property and inspect.

LUC Redmond informs Mr. Hock that the building permit for the temporary Quonset building he applied for has been denied because after several requests by the building inspector, no floor plans have been delivered to the building department by Mr. Hock.

This matter will be on the Zoning agenda for the next meeting on January 22, 2024 though Atty. Conti states he will not be able to attend that meeting. Atty. Mancini also cannot attend.

Stephen Smith is unseated and Commissioner Deborah Kovall is reseated at this time.

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

Leonard Lopardo is present and states that all drainage within Sunset Ridge is in. An as built is being prepared with information from David Battista, P.E., Haley Ward, incorporated. Mr. Lopardo wants his surveyors on site for the retaining wall which will also be incorporated into the as built. They've been waiting for cold weather to settle in to place plywood down to gain entry with the excavator to put rip rap down on the slope but it hasn't happened yet. T. Root states that with the type of weather they're forecasting for the next week, Mr. Lopardo should do something to protect the property. Mr. Lopardo states that the small excavating machine is on site now waiting for the cold to set in. He explains that 75 yards of material will have to come off the slope and then rip rap will go in. T. Root questions the use of erosion control measures with ZEO Truskauskas stating he has mixed feelings on erosion control because if haybales are stacked up, they may stop the water and back it up, though haybales placed by the house (Lucian's) would be okay.

William Foster, 6 Hannah Way, questions the long-term plan for the slope to hold and what prevention will be taken so the hill that came down doesn't happen again. ZEO Truskauskas states that rip rap will be placed ten feet up on the bank.

Lois Pike, buyer of 17 Hannah Way, states that she and her husband have been waiting to move in to the house that is one of two being held off from C.O.'s being issued. She states that Mr. Lopardo told her that she could move in to the house a long time ago but with the house not having a C.O., they have been renting a place to live in. T. Root explains that things within Sunset Ridge were not completed and that it wasn't the Zoning Commission who was holding anything up. Lois & Wilbur Pike have written a letter to the Zoning Commission outlining facts of non-action in relation to the construction of 17 Hannah Way since they gave their first deposit to Mr. Lopardo in June 2022 and that Mr. Lopardo had promised them that their house would be ready in six months from that date.

At this time, ZEO Truskauskas reviews items that remained outstanding at the time he wrote of them to Mr. Lopardo on September 2, 2021. Of the nine items outlined, all have been completed except for inspection of the water quality basin on site. ZEO Truskauskas provides a Preliminary Punch List dated January 3, 2024 and updated January 8, 2024 after inspection of the property. The Punch List outlines items as follows:

- Condition 2 of the Zoning approval states *Private roads within the development of Sunset Ridge shall be built to Town of Harwinton Road Standards for load bearing capacity in order to handle emergency vehicles and that the applicant's engineer shall provide inspection and written certification of this condition.*
- Drainage system to meet Town of Harwinton Standards, and *that the applicant's engineer shall provide inspections and written certification of this condition.*
- Pond Inspection due again.
- Landscaping Plans and landscaping completed.
- Final as built plans with utilities, driveways, structures, roadways, signs, etc. Roof drain location for Unit 10, 11 and 14; show CB by Unit 1.
- Curbing and asphalt swales to catch basins.
- Slope erosion repaired.
- Swale behind units (Torrington town line side).
- All erosion controls working properly.
- Faircloth filter functioning properly.
- Faircloth Skimmer should be looked at.

Lillian Busse, 15 Hannah Way, has sent correspondence and photos to the Land Use office dated January 4, 2024 showing water issues at Units 27, 28, 29 and 30 and the need to expand the swale. She sent her own Punch List of items, dated January 7, 2024, that she states still needs to be done including: Detention Pond, Curbing missing in some locations, Catch Basin and Swale, Remaining Landscaping per revised plan, Weeds, Grading, Topsoil and seed disturbed areas (Phase 3 and Phase 5) and Mudslides plan still not started and other erosion sites. In her email to the Land Use office dated January 7, 2024 she questioned who will check to see if the as built is correct and that she notices some things that are missing or not in the right location. This email was forwarded to Zoning Commissioners and the Zoning Enforcement Officer.

Bonding is discussed with ZEO Truskauskas noting bond amounts for certain items such as wetland plantings, seed and restoration, slope erosion and bonding for the recent swale that involves erosion control.

D. Foster informs Lois Pike that Mr. Lopardo was aware that no C.O.s were to be issued at the time in 2022 when her and her husband purchased 17 Hannah Way. Wilbur Pike speaks of the payments they have made to Mr. Lopardo and that those payments were the only thing consistent since they purchased the house.

Lillian Busse, 15 Hannah Way, refers to the Wetlands bond noting that the bond is also for the detention basin, not just for the wetland plantings in the basin. She states that there is no dirt behind the curbing that was recently put in which can become a problem when the roads get plowed. Mr. Lopardo agrees to get the dirt in behind the curbing before the next Zoning meeting. Lillian Busse states that the curbing that was put in in September 2023 also do not have dirt behind them.

T. Root **motioned** to release 17 Hannah Way in order to allow the Pike's to move forward and move in to their house. D. Foster seconded the motion and it passed unanimously. Mr. Lopardo is informed that the last house remaining will not be released until all items noted in the Punch List are completed.

7. COMPLAINTS/ENFORCEMENT ACTIONS.

None.

8. ANY OTHER BUSINESS.

None.

9. INFORMAL DISCUSSION – PROPOSED ZONING REGULATION AMENDMENTS.

No discussion.

10. CORRESPONDENCE.

None.

11. INVOICES.

None.

12. ADJOURN.

W. Ponte **motioned** to adjourn the meeting at 9:35 p.m., seconded by T. Root. Motion passed unanimously.

Respectfully submitted,

Polly Redmond
Land Use Coordinator

