HARWINTON ZONING COMMISSION MEETING
MONDAY, FEBRUARY 10, 2014
TOWN HALL 7:00 P.M.

Present: Chairman Todd Ouellette, Anne Marie Buonocore, Don Truskauskas, Cory Iacino, Alternate Member Lynne Steincamp, Alternate Member Joseph Marzullo and Land Use Coordinator Polly Redmond
Absent: Regular Member David Mathes
Also present: 1st Selectman Michael Criss and Town Atty. Michael D. Rybak

CONTINUED PUBLIC HEARING

1. **OPEN PUBLIC HEARING – ESTABLISH QUORUM.**
   Chairman Ouellette called the hearing to order at 7:00 p.m. All regular members present are seated with Alternate Member L. Steincamp seated for D. Mathes.

2. **PRESENT AND CONSIDER ZONING COMMISSION INITIATED ZONING REGULATION AMENDMENTS TO ZONING REGULATIONS DATED 9-17-12.**
   Chairman Ouellette acknowledges the receipt of two letters from residents of town. The first from Alysen Almand and the second from Stacey Sefcik. Letters remain on file.
   Chairman Ouellette opens the floor to public comment at this time.

   Joseph Sefcik, 252 Lead Mine Brook Road, makes comment that proposed amendments without a professional Zoning Enforcement Officer or a Town Planner leads to unintended consequences. He questions whether the Zoning Commission had consulted with the town attorney for comment on the proposed amendments. Chairman Ouellette responds stating that the town attorney was in attendance at the opening of this hearing on 1/27/14 and made comments on each proposal.

   Commissioner D. Truskauskas wishes to acknowledge the mailing of information cards giving notice of the public hearing by the Democratic Town Committee to residents of town. He states that the public hearing on these proposed regulations opened on 1/27/14 with no crowd in attendance. In referring to the information on the mailing cards he states that the commission is not putting forth allowing bars in town. He states that the Plan of Conservation and Development itself questions the 1000 foot setback. If the regulation passes, the Zoning Commission would review each application through a Special Permit process and each application would also be reviewed by the Liquor Control Commission. D. Truskauskas notes that the information card spoke of a proposed regulation allowing for unlimited structures and use of land for recreation, which he notes is already allowed with the current regulations. Regarding the proposed regulation allowing crushing on site, D. Truskauskas clarifies that this proposal would allow for on-site crushing of material as long as the material stays on site. It would be permitted through a Special Permit with conditions of operation and by allowing this it would reduce truck traffic, erosion and dust. In regards to the amendment for Keeping of Animals, D. Truskauskas states that the information card mailed out is incorrect. The commission's recommendation is derived from research and from published guidelines by, among others, the American Farmland Trust, who recommend generally accepted practices in keeping of animals. These generally accepted practices are determined by the Dept. of Agriculture.

   Victoria Elliott, 10 Litchfield Road, questions what would prevent her from opening a tavern out of her home with Commissioner D. Truskauskas stating that it would be impossible as she lives in a residential zone.

Tammy Mitman, 310 South Road, states that she has two horses and believes that the current regulations regarding keeping of animals is sufficient. She notes that too many horses kept on a property can create land issues and can drain streams and rivers, not to mention the manure problems that would exist. She believes that without regulating the number of horses or animals the town would see certain properties quickly having too many animals on a property. Concerning the selling/serving of alcohol, she questions whether a restriction could be placed on hours of serving alcohol.

Andrew Goldstein, 330 North Road, states that he owns 60 acres, 30 of which is meadow. He has four horses that put a tremendous strain on the property. He cautions the commission to think this amendment through. Regarding ATV use, he states that there is no law against them on your own property. He adds that the Torrington Area Health District has limits on decibel levels for noise control which is set at 55 decibels during the day and that an idling ATV is at 96 decibels. He believes the commission should not be opening the use up but instead should be restricting it. He recommends that the commission table all regulation proposals.

John Vecchitto, 233 Terryville Road, refers to Section 6.6 Keeping of Animals and believes that deleting all regulations on keeping of animals is too loose. He questions what "general" means when speaking of *generally accepted practices*. He states that he lives next to a property where there were 11 horses being kept on four acres of land and that had diminished his quality of living. He believes that regulations should be specific, especially in Harwinton, and that environmental impact and quality of life impact should be looked into.

Jon Truskauskas, 82 Lake Harwinton Road, said that he recently spoke to Jim Rokos, TAHD, about ATV use and was told to contact DMV as TAHD does not regulate them.

Fred Williamson, 159 Burlington Road, states that he is a 50 year resident and likes the town just the way it is. He believes there is no need to serve liquor in the restaurants in town. He speaks of "unlimited structures for recreational purposes" that is outlined on the mailed information card and believes this is also not a need. In regards to allowing crushing of material on site, he states that listening to a crusher for twelve hours a day would be bad enough but that the next permit might be to sell the material from the site.

George Werner, 591 Litchfield Road, states he can't imagine dealing with the noise and pollution of this activity for many hours throughout the day. In regards to structures allowed without a principal use, and for recreational purposes, he questions what else may go on in a building that has no principal use. He believes that by deleting the setbacks for liquor sales and service will put a strain on the troopers in town.

John McGuirk, 92 Catlin Road, states that he has reviewed the minutes from the 1/27/14 public hearing and refers to Section 2.3 Accessory Building definition. At the 1/27/14 public hearing it was said that by allowing accessory buildings on a property without a principal use would help the Lake Harwinton Association lots. He is in the LHA zone and sees no problem with leaving this regulation alone. If variances are required, they could be sought which just recently happened to one lake property owner. His big concern for the LHA is that someone could come in, build a structure and increase the use of the property, which may not be appropriate.

Janet Burritt, 31 Whetstone Road, questions whether roadside stands could be allowed to sell any produce at any stand as long as it's grown in Harwinton. She expresses her fear of shared driveways as far as emergency vehicles are concerned and that she is not in favor of them. She believes that the omission of a distance setback requirement for serving/selling alcohol should be given more thought.

Paul Roche, 90 Wilson Pond Road, states he is on the Planning Commission but is not here in that capacity. He states that the Planning Commission initially agreed that the setback requirements could be deleted but then changed their opinion and suggested that the Zoning Commission seek the advice of Town Counsel. He himself strongly recommends against deleting the setback requirements. Commissioner Truskauskas questions whether Mr. Roche, as a Planning Commissioner, had questioned whether it was unconstitutional to restrict selling/serving alcohol within town limits. Mr. Roche states that the question should be posed to Atty. Rybak but that with this change, the town could possibly see a stripper bar across the street from the Consolidated Elementary School. In regards to Section 4.1 that would allow ATV and Snowmobile use on residential properties, Mr. Roche states that by allowing buildings on residential land for any purpose as long as it's stated as "recreational" should be given more thought.

Althea Stowe, 4 Timber Lane, states her belief that the proposals presented have not been given much thought by the Zoning Commissioners and that someone who knows the laws of Zoning should be hired to provide assistance.

Christina Emery, 38 Meadowview Drive, states she is on the Planning Commission but is not here in that capacity. She questions where the proposal to omit the 1000 foot setback distance requirement from churches, schools, parks, etc. for selling/serving alcohol came from and that the Economic Development Committee had not spoken of this during their meetings. She also believes the Zoning Commission should obtain the services of a Town Planner.

Ron Landrette, 172 Burlington Road, states he doesn't have a problem with ATV and snowmobile use by his neighbors. He states his belief that the current Zoning Regulations on agriculture (keeping of animals) are sufficient.

Dan Eschner, 283 Terryville Road, states that the regulation concerning Keeping of Animals should be regulated more. There are concerns of amounts of manure becoming a problem and birds in excess being kept on the property becoming a health issue.

Robin Turpin, 54 South Road, questions what the Zoning Commission envisions for the town. She doesn't want to see excess animals, business or ATV use. She states that the Zoning Commission has a lot of responsibility and these proposals presented tonight are not what a majority of residents want.

Elizabeth O'Connell, 34 Millbrook Lane, believes that the people of Harwinton love the town for what it is. She states that she supports businesses in town but questions at what risk do these proposals bring. She doesn't believe Hooters would open up in Harwinton but the proposal to omit the 1000 foot distance requirement to serving/selling alcohol from schools, etc. opens the town up to it. She questions whether a limited permit to serve wine and beer to the two pizza restaurants can be issued.

Augustine Cofrancesco, 369 Wildcat Hill Road, states that he has lived here for 35 years and moved here where there is less pollution and noise and for his love of wildlife and nature. He states he would like to see the town stay this way. Regarding ATV and Snowmobile use, he states that noise travels and wildlife would be affected. He states there are legitimate places one can go to conduct this type of activity.

Joseph Sefcik, 252 Lead Mine Brook Road, reads a letter written by his wife, Stacey Sefcik, to the Commission at this time.
Due to its length (11 pages), and after approximately 15 minutes of reading, Chairman Ouellette interrupts and asks Mr. Sefcik to stop reading due to the amount of time it would take to read the letter in its entirety. *Stacey Sefcik's letter will be added to the end of these minutes along with a letter received from Alysen Almand, 401 Burlington Road.

Andrew Goldstein, 330 North Road, makes final comment asking that the Zoning Commission please take a step back and don't rush these proposed regulations and states his belief that a professional should be hired to assist.

George Werner, 591 Litchfield Road, asks the public if anyone supports the change to the setback requirement for selling/serving alcohol. Commissioner D. Truskauskas states that it is inappropriate to ask residents to show a raise of hand for their support.

Joe Campoli, 111 Shingle Mill Road, states that he has crushed material for a living and warns that no one wants such an activity in their neighborhood or down the street.

Steve Sylvester, 36 Lake Drive, states his agreement with Mr. Campoli in that one would not want a crusher operation next door to their property.

John McGuirk, 92 Catlin Road, states that the proposal to allow for internally lit signs produces harsh light. He believes illuminated signs are alright but allowing internally illuminated signs is a mistake.

Commissioner D. Truskauskas asks for advice from Town Atty. Michael Rybak on the proper way to proceed with this public hearing. Atty. Michael Rybak states that the Commission could close the hearing, but with the amount of public comments made tonight, the Commission may want to keep the hearing open and hire a Town Planner to consult. He states there is no time limit on closing or deciding since this is a Commission initiated proposal. In response to Stacey Sefcik's comment in her letter that the Commission may have undertaken an action that could very well be considered predetermination by discussing their support of a proposed regulations amendment, Atty. Rybak states that the Commission must have predetermined these proposed regulations as they are Commission initiated. He continues by stating that rarely will a court overturn a Commission initiated regulation amendment but he warns that this is not a Town Meeting and if the townspeople do not like the regulation changes they can take legal action. He urges the Commission to exercise caution.

3. **CONTINUE OR CLOSE HEARING.**
At 8:30 p .m. Commissioner D. Truskauskas **motioned** to continue the public hearing to Monday, February 24, 2014 at 7:00 p.m. in the town hall, seconded by C. Iacino. Motion passed unanimously.

REGULAR MEETING

1. **OPEN MEETING – ESTABLISH QUORUM.**
   Chairman Ouellette called the meeting to order at 8:35 p.m. All regular members present are seated with Alternate Member L. Steincamp seated for D. Mathes.

2. **APPROVE MINUTES OF PREVIOUS MEETINGS:** 1/27/14
   A. Buonocore **motioned** to approve the minutes of the previous meeting, seconded by C. Iacino. Motion passed unanimously.

3. **DISCUSSION/POSSIBLE DECISION - PROPOSED ZONING REGULATION AMENDMENTS.**
   No discussion.

4. **COMPLAINTS/ENFORCEMENT ACTIONS.**
   None.

5. **ANY OTHER BUSINESS.**
   Commissioners ask that the ZEO issue reports to them regardless of activities that may or may not be going on. This is the Commission's second request.

   Janet Burritt, Whetstone Road, is present and states that at one time she was on the Zoning Board of Appeals and that seminars she attended were helpful to offer guidance. She believes it would be of great benefit for Commissioners to have training on not just Zoning Regulations but also on laws of the state. It is her hope that the Board of Selectmen or the Board of Finance would approve having someone come in to provide this service.

6. **CORRESPONDENCE.**
   None.

7. **INVOICES.**
   None.

8. **ADJOURN.**
   A. Buonocore **motioned** to adjourn the meeting at 8:40 p.m., seconded by D. Truskauskas. Motion passed unanimously.

Respectfully submitted,

Polly Redmond
Land Use Coordinator

Land Use

From: Alysen <aalmand2@gmail.com>
Sent: Monday, February 10, 2014 11:00 AM
To: Land Use
Subject: Tonight's Zoning Meeting

Hi Polly,

I had hoped to be able to attend tonights zoning meeting, but my current health status isn't making that possible. I would like the board to be aware of my family's position on the proposed amendment to our current zoning regulations, specifically concerning the crushing of gravel on site.

If this amendment were to pass, the environmental impact must be considered. Harwinton is a family town first. The dust being released into the air in a residential neighborhood where our children play is of huge concern considering how many people are afflicted with asthma and other breathing issues. A person suffering from emphysema would be particularly effected adversely. The run off from the newly exposed raw materials leeching into the ground water where the majority of the residents have wells is also cause for concern, not to mention the impact on the local wildlife. Typically, a facility which processes gravel would have the appropriate controls to prevent the spread of air borne particulate matter, as well as run off material and safe guards to prevent pollution in the case of a storm event. If this were to pass, the Town needs to be able to ensure there is a full time Certified Zoning Enforcement Officer who has the experience in dealing with these particular operations to verify they are being run correctly. My fear is the ability to provide the same level of safety as a commercial operation utilizing a temporary set up in someone's yard would be at worst woefully inadequate or at best cost prohibitive. If this is passed, Harwinton has a responsibility to its residents to make sure it is fluent in, and able to enforce, any industry and/or government standards which may apply.

The noise created also has to be taken into account. I understand that this facet would be under the umbrella of Torrington Public Health District, and not Harwinton's zoning committee at all. I find it unconscionable that a regulation as potentially disruptive as the crushing of gravel in a residential neighborhood would be passed by a committee that can not then enforce against potential abuse. Per the TAHD noise regulations, crushing gravel, or the operation of any construction equipment, can be preformed between the hours of 7:00 am to 10:00 pm Monday through Saturday, and 9:00 am through 10 pm on Sundays. As a mother with very small children I can tell you that having a neighbor who operates heavy machinery on a regular basis is difficult enough. A backhoe running at 7:00 am is considerably disruptive, especially with a newborn. Rocks being crushed would be a nightmare, regardless of how long the Operation lasted. If this amendment were to pass, then that same neighbor could conceivable decide to use gravel from his property to cover the trails he has running through out his 33 acres, and process it all on site, legally. With your proposed Amendment my family, and all the surrounding property owners, would have little to no recourse.

Aside from that hypothetical nightmare, there are also past instances of issues with on site processing of gravel. Several years ago on Hill Road, an application approved for farm ponds to be dug on a property by the Naugatuck River. Attny Ryback can give you the details, as he represented the property owner at the time. I grew up next door to where the work was being done and can tell you from first hand experience how disruptive having gravel crushed while you are trying to do homework, sleep, or go about your day to day activities is, even from a distance of over a 1/2 mile away. It is not something I ever care to repeat, and luckily at the time it was stopped, due to the current regulations.

I can understand the committee's concerns about trucking the materials from the site. The large vehicles used to shake the windows of our home and were very loud. However, it takes maybe a half hour to load a truck. Under a minute for a truck to pass a home. Roughly the same amount of time to unload it back at the property. Wheel wash areas are relatively inexpensive to create and an easy way to prevent aggregate from entering roadways. It is a intermittent

inconvenience, with existing regulations and controls, not a continuous operation which to a large extent is entirely unenforceable by the town.

With all of the potential negatives associated with passing this amendment, I question why it is even being considered. I can only see it as a negative for the residents of Harwinton, and seriously hope you will leave it on the books as is. My family moved back to Harwinton because of its rural charm and environmental quality. This amendment threatens both and is extremely short sighted.

Best Regards,

-Alysen Kovall Almand
401 Burlington Road
Harwinton, CT 06791

Received in Land Use office 2/10/14
11 pgs.
Patty Redmond

Hello,

My name is Stacey Sefcik and I am a Town resident residing at 252 Lead Mine Brook Road for the past 11 years. I am requesting that the following letter be read into the record at the Zoning Commission's February 10th public hearing on proposed amendments to the Zoning Regulations. I regret that my work schedule precludes my attendance at this meeting to discuss this in person and answer any questions. For the record I am declaring that I am a Certified Zoning Enforcement Technician as per the requirements of the Connecticut Association of Zoning Enforcement Officials. I have also worked in various capacities in the land use departments of four different local towns for the past 6 years. I am not by any stretch a certified planner; my statements are based entirely on my own training, experiences, and observations.

A yellow postcard was sent out in the mail by the Democratic Town Committee, I presume to all Town residents, about the proposed changes and urging residents to come tonight to the continued public hearing on the Zoning Text Amendments. Knowing how seriously people in this town can take their politics, I figured it had equal potential to be a really good change or a really bad change. I then went through the minutes of the January 27th public hearing. I have not seen the text of any of these proposals; my comments about specific content are entirely based on what was detailed in those minutes.

Before I begin, let me say that I do very much applaud the Commission's intention to amend some very badly written Zoning Regulations, I really do. These regulations are DIRELY in need of a rewrite and have been for YEARS, and despite the efforts by some to characterize this as a Democrat vs. Republican issue where the Commission is pandering to "special interests", the fact remains that these Regulations have been sorely lacking for many years and over several different administrations with different political affiliations. Improving on a longstanding problem like this will be a Herculean effort, and while I may not be in favor of many of the amendments now before the Commission today for a variety of reasons, I do nonetheless give this Commission credit for at least having the courage to try.

While I was glad to see they followed necessary protocols in legal noticing (although by a simple count of dates it was a very close shave with the Notice of Public Hearing) and they did seek the input of all the necessary and some recommended authorities - the LHCEO, the Planning Commission, and thankfully the Town's attorney - the fact remains that there are still procedural issues in this public hearing. There are also issues that they are attempting to regulate that really, they have very debatable authority to regulate. And in many cases, since they did not solicit any professional planning opinions, they are making some choices that could potentially have long term adverse consequences for the Town. While I haven't had time to review everything, I did try to provide some examples for everyone's consideration. I apologize ahead of time for the length of this analysis.

1. By stating their unanimous support to several of these changes to Section 2.3 while still in the public hearing phase and taking public testimony, the Commission has undertaken an action that could very well be considered predetermination, which may well give ample grounds for appeal to Superior Court for this entire decision.

In the discussion of amendments to Section 2.3 - Accessory Buildings - at the January 27th meeting, the minutes state, underlined for emphasis, that "All commissioners are in favor of removing the agricultural aspect of accessory buildings and allowing any type of accessory building to be constructed without a principal use with conditions placed on approvals that they are not to be used for residential or business purposes." Later in the discussion of the changes to the definition of "Public Garage" again underlined for

emphasis, was the following quote: "All Commissioners are in favor of deleting the definition of Garage, Public." Laying aside the merits of these proposed amendments, the fact is that the Commission just appeared to render a decision on this particular issue while still in the public hearing phase and taking public testimony, which is a VERY BAD IDEA. If someone wants to appeal this entire decision, the Commission may have just inadvertently given them ample grounds to do so under the premise of predetermination. The theory is that, if someone now came in to the February 10th continued public hearing and explained why they were against this amendment, and the Commission still went ahead and adopted it, clearly the opinion of that citizen on February 10th could never have been openly and fairly considered by the Commission members because the entire Zoning Commission had already gone on the record at the January 27th meeting as having being entirely in favor of this amendment. Procedural fairness has already been violated, and procedural issues are a leading reason why commissions lose when people appeal their decisions.

2. The proposed amendments to Section 2.3 may not even be necessary to achieve what was in part the stated goals of this proposed amendment, and could very possibly have disastrous unintended consequences since they appear to be proposed to apply to ALL accessory buildings in the entire Town. A certified planner's input should be solicited to clarify and improve this amendment before it goes forward.

Regarding the merits of this issue, I would point out that this pertains to "Accessory Buildings" - an accessory building is by definition subordinate to a something that is PRINCIPAL, the main use or structure of the property. A detached garage is accessory or subordinate to an actual residence and the residential use of the property. A paved parking lot is accessory to a commercial plaza. A barn can be an accessory to a residence or a farm. There is a reason that Zoning Regulations make this distinction - very often accessory structures have more specific requirements attached to them than principal structures. The permitted setbacks may be different, the permitted heights might be different, and they might be permitted to be located in areas on the property that a principal structure is not normally permitted. With this change the Commission is now turning something that is by definition subordinate, incidental to something else, into the MAIN THING on the property. Language and precision matter in Zoning Regulations. I would refer the Commission to the attached document from the American Planning Association, the organization to which all Certified Planners belong, for a brief explanation of the whole topic of accessory uses: http://www.planning.org/lbcs/background/pdf/accessoryuses.pdf

As regards farming structures, I am wondering whether this change is even necessary. While the definition of accessory structure in the regulations states that "No accessory building or use shall be established in the absence of a principal building or use" -- if a property is clearly used for farming, you may in fact have already clearly established the principal use of the property. As you will see in the document I cited, principal uses in zoning law traditionally include their related facilities. Section 4.1 of the Zoning Regulations states that agricultural and horticultural uses, provided only the slaughtering of livestock and poultry raised on the premises occurs, shall be permitted. Roadside stands for sale of farm produce provided that the produce offered for sale is produced on the farm on which the stand is located are also permitted. As with so many other parts of the regulations, this isn't worded very well, but I interpret it to mean that agricultural uses are permitted uses in the residential zones listed. A barn, which is clearly a related facility to the permitted agricultural use, may in fact already be permitted. It would still need a Zoning Permit as does any structure, but I am not sure that this amendment is really necessary to achieve what it is that I gather is the amendment creator's goal. A certified planner's input should really be sought for clarification. I haven't seen the full language of the specific amendment proposed. At best, this change

may be simply unnecessary. At worst, since the rest of these Zoning Regulations are so badly worded, this well-meant change intended to address one specific type of concern might well have unintended consequences when it is later found it unfortunately applies and gives permission in other less convenient or desirable circumstances. I would concur with Attorney Rybak that the Commission should consider this very carefully, as it appears to impact EVERY property in Town - even the ones that are not farms and do not have the issues that properties at Lake Harwinton may have. I agree with Attorney Rybak that at a minimum, wording should be put in that dictates whether accessory structures can later be converted to dwellings or commercial enterprises.

3. The proposed amendment to the definition of Public Garage is a good idea, but the Commission should consider whether this might in some way impact their regulations pertaining to Junk and Junk Yards. The input of a planner might better word the definitions to better reflect this worthwhile intention and avoid unnecessary confusion. The same caution is true of changes to the definition of Height, Low-Impact Development, Livestock, and Poultry.

I think I see the Commission's intent on this change, and I agree it is a worthwhile goal, but more thought should be given to how to achieve that end. I would just point out that if you are defining "public garage" you should consider defining "private garage"-- again, specificity and clarity are good ideas in Zoning Regulations. And I note, as perhaps the Planning Commission might have been intimating in their questions regarding the definition of "vehicle", that no mention was made as to whether or not the vehicle had to be registered or in good working order. A public garage allows the storage of 5 or more vehicles but the definition does not specify what their condition should be; the Junk Yard (Motor Vehicle) definition says that it is "any place which has stored or deposited TWO OR MORE unregistered motor vehicles which are no longer intended or in condition for legal use on public highways..." Is a public garage now at risk of being considered a junk yard? Is the new and undefined private garage also potentially a junk yard? Lack of clarity might lead to this conclusion. I would also add that if you are going to define a "Public Garage" you would probably want to point out where such a thing could be located, if you have not already done so.

A review of other town's regulations on this issue may lead to clearer regulations. For instance, in New Hartford, the following definitions are used:

Garage, Commercial – Place of business where motor vehicles are, for compensation, received for housing, storage or repair.

Garage, Private – A roofed space for storage of one (1) or more vehicles, Accessory to a permitted Principal Use in the District, provided no business or service is conducted for profit therein.

Other towns simply do not address this distinction at all. Perhaps deleting the whole thing is best. Perhaps the answer is identifying where a public garage can be and then defining a private garage. A planner could provide better input into the pros and cons of this decision before eliminating the entire definition generates unintended and unforeseen consequences.

I noted that other changes were planned to the definition of height, low-impact development, livestock, and poultry. The same cautions can also be said here. Not knowing what the specific changes proposed actually are, I can agree that the current definitions need improvement. However, a planner would be of assistance in knowing whether the proposed language is inadvertently conflicting with other areas of the

zoning regulations, creates unforeseen consequences, and dovetails with the new Right to Farm Ordinance. Once again, review of language in use in other similarly situated Towns might prove helpful if it was not already done.

4. The proposed amendment pertaining to ATVs may in fact be an overstepping of the Zoning Commission's authority. This should be reviewed further with a Certified Planner and the Town Attorney before implementing.

I can respect the various concerns on this issue; however, my understanding is that use of an ATV on one's own property is part of a property owner's right to the enjoyment of their property. I know that some places throughout the country have chosen to regulate this somewhat, but it appears from my limited research to only have been done in the form of Noise Ordinances adopted by the Town at large, not the Zoning Commission. I would tend to agree with the Planning Commission in their assessment that this is already a permitted right. I also agree with Attorney Rybak that the Zoning Commission is stepping on shaky ground by trying to list specific ways in which residents can enjoy the use of their private property.

I would strongly encourage members of the Commission to take a look at Chapter 124 of the Connecticut General Statutes, specifically Section 8-2 which defines what the regulatory authority of the Zoning Commission actually is. The link is here... http://www.cga.ct.gov/2011/pub/chap124.htm#Sec8-1.htm

5. The change to Section 4.3 is in fact unenforceable.

I concur with Attorney Rybak's advice on this issue. The Commission cannot condition its approvals on the actions of outside agencies.

6. Discussion with a Certified Planner and research of other town's regulations are highly recommended before making changes to the signage and lighting requirements in Section 4.5.

Some changes to the regulations may well be merited, but I think it is always a good idea to have changes to regulations concerning commercial zones reviewed by a planner. Some of these issues play into aesthetics and whether or not a large internally illuminated sign is reflective of the rural character of the Town, particularly in places like the Route 4/Route 118 corridor where our Town is best on display to passersby. Other signage may in certain places be more aesthetically pleasing and in character with the rural nature of the town while still meeting the legitimate needs of the Town's business owners. Lighting is always a concern in terms of how that lighting may affect adjoining properties, particularly nearby residential properties. A planner can perhaps give suggestions and alternatives to meet the businesses' needs while respecting concerns about local character as well as any neighbors' issues where a commercial zone meets a residential one.

7. Section 5, Old Section 9.6/New Section 6.4 Rear Lots, Section 6.5.2 Driveways and Accessways - Changing the way rear lots are handled and modifying the regulations to allow common driveways - While perhaps a worthwhile item to review, it may not be advisable to completely eliminate Zoning Commission review at some level as the Planning Commission does not have authority over Zoning issues.

Not all towns require a special permit for rear lots, although I believe it might be more common and desirable if you plan to allow multiple rear lots with common driveways. The two towns I now work in allow rear lots with common driveways, but in both cases a Special Permit is required, as is a common driveway easement clarifying ownership and maintenance responsibilities, the language of which is

required to be reviewed by the Town's attorney. However, that I have seen, even those towns that don't use a special permit for a rear lot without a common driveway still do have Zoning Regulations in place to govern rear lots, and those applications must still be reviewed by the Zoning Commission. This gives the Commission oversight, but does not add the additional requirement of a public hearing.

I would just like to point out that Zoning Regulations are the purview of the Zoning Commission; Subdivision Regulations are the purview of the Planning Commission. When a subdivision application comes before the Planning Commission, the Planning Commission does want to ensure whether or not the lots it may create meet the Zoning Regulations that have been established for the Town as a part of their review, but I think it is important to note that other than their advisory input on Zoning Text Amendments, the Planning Commission does not have the right to make or enforce what those Zoning Regulations actually ARE. As before, I'd encourage Planner input before unilaterally deleting or substantially changing this part of the regulations.

8. Section 6.6 - Deleting all language pertaining to the keeping of animals - may adversely affect zones with smaller lot sizes and higher density.

I would note that the minutes say keeping of animals is in Section 6.6. The table of contents on the Zoning Regulations on the website say it is in Section 6.5, page 35. I work in one town that has regulations regarding the keeping of animals, and I work in another town that does not have this language and also has a Right to Farm Ordinance. Attorney Rybak said that these regulations may have had their origin in concerns about the amount and type of animals on small parcels of land; my observations in the towns I've worked for would say he is correct.

Even the town I work in that has a Right to Farm ordinance only lists farming (and by extension the keeping of farm animals) as a permitted use in the 2-acre and 5-acre residential zones; it is not permitted in the residential lake zone where the properties are sewered and typically less than one acre, and it is allowed in the residential area where lots are to be 1-2 acres by Special Permit only. Keeping of animals can be a legitimate concern for some people when their house is very close to their neighbor's house. My neighbor across the street had chickens for many years and we loved it and had no issues at all. But not everyone, especially in areas with smaller lot sizes, appreciates the charm of free-range chickens crossing the street from the neighbor's property onto their own, perhaps becoming road kill in the process. Some might also not appreciate the next door neighbor's rooster 30 feet away awakening them at 5:00 in the morning every day of the week. This sort of situation has led to concerns in the town I work in that developed regulations regarding the Keeping of Animals where the keeping of chickens continues to be an issue of periodic complaint when it was recently permitted in an area of town that had smaller lots.

We also had an issue in that same town whereby a woman had four licensed dogs of her own in addition to up to 4-5 additional dogs there temporarily several times per week as she operated a dog rescue out of her home. The average property size in that area was about 1/2 acre at most and the neighbors most definitely did not appreciate the noise and the odors that emanated from her back yard, situated as it was so close to their own deck. She was found to be in violation of several zoning regulations in doing this, but I think it still serves as an example of things to be considered when unilaterally eliminating restrictions on the Keeping of Animals in all zones.

I heartily support farming and as a resident I am open to changes in this area of the regulations, but the needs of ALL residents have to be considered by the Commission; thought should be given to whether this is an appropriate idea for EVERY residential zone in town or whether there are residential zones where this might not be the best idea. If this is going to be done, then I personally think the definitions for such words as "farming" , "barn" , "kennel" , "livestock", "nursery" , etc. had better be VERY clear. I know changes to some of these terms were proposed for the regulations, but I have not been able to read them so I can't comment on any potential issues. And if poultry is going to be allowed throughout town, you might want to give thought to whether roosters should be allowed in those areas with small lot sizes. Yet again, a planner can help sort this all out.

9. Changes to Section 6.2 regarding the Use of Home for Personal Business -- More substantial changes to this policy are needed than what is currently proposed.

I submitted extensive information on this exact issue several months ago in relation to the possible application for the use of a residential property for Gun Safety Classes with a Practice Range. Home based businesses are an asset to the Town and are a great way to encourage entrepreneurship that may eventually expanded and become a larger business paying taxes in the community. I agree that the Town's Home Based Business regulations should absolutely be changed, and this can be done so as to encourage business while still respecting neighboring residential property owners, but I personally do not think this minor change goes far enough or provides enough clarity to what can be a much more complicated issue. If you are going to allow 1-2 customers, do you mean 1-2 at a time but no limit on the total amount over the day or week? Do you mean 1-2 per day total? I am not necessarily advocating for one idea or another - I am just advocating for clarity and precision in your wording so your intentions are clear.

I would also just like to point out that if this change were adopted and another resident came in seeking to establish another business like gun safety classes and with training time to only 1-2 clients -- there would still be reasons to seriously question whether or not that home based business required a Special Permit by the mere nature of the business being conducted and the potential effects on the neighborhood. This is why the two towns I work in, both of which encourage and have many home-based businesses, do require some level of Zoning Commission oversight on just about all home based businesses. If Harwinton had a Certified ZEO on staff specifically to assist residents and potential business owners during established office hours, this person could easily help someone interesting in starting up a home based business to navigate the requirements such that the process was relatively painless for the potential business owner while the rights of the neighbors were still respected.

I would encourage the Commission to take the time necessary to investigate ways to make these regulations much more clear. Once again, I would strongly recommend that the Commission review neighboring town's regulations on this issue to better understand what their options are.

10. Changes to Section 8.1 - Adding to the types of zoning permits that can be approved by the Land Use staff instead of by the Zoning Commission as a whole.

As I had recommended this change to the Commission back in April 2013, I heartily applaud this change and was glad to see it included in the list of amendments. Allowing a ZEO to sign off on zoning permits for structures, decks, etc. makes the whole permitting process so much easier for Town residents and business owners. They will no longer have to wait weeks on end to have the Commission review their applications. This change also streamlines the Zoning Commission meeting and may result in the need for fewer and shorter Zoning Commission meetings every month. Additionally, decisions rendered by the

ZEO can only be appealed to the Zoning Board of Appeals, whereas decisions rendered by the Commission are appealed directly to Superior Court. This gives a quicker and less costly avenue of appeal to those seeking one on zoning permits. I would just encourage that information about How to Appeal Zoning Decisions should be published and made available to Town residents so they understand what their rights and responsibilities are under this new policy. Neighboring Towns have brochures available that they distribute to applicants in this situation; I am sure they'd be happy to forward one to you for your reference.

11. Section 9.1 - Procedure for Special Permits. It may have been an inadvertent error, but the Zoning Commission CANNOT require notification by certified mail. There are also important reasons to keep the level of notice to abutters as it currently is required.

State statutes clearly state that if a Town requires notification by applicants to abutting property owners, "Certificates of Mailing" are the method by which this is to be accomplished. You cannot require green cards or certified mail. People may choose to do so anyway, but it is not something the Commission can require. Anywhere in the Zoning Commission's regulations (or the Subdivision/Wetlands/ZBA guidelines and regulations for that matter) where notification of abutters is detailed, this should be corrected to comply with State statute.

Regarding the possible change to the level of noticing to be required, I have seen towns define abutting neighbors as only those properties immediately touching the boundaries of the property in question, on the same side of the street. I have also seen towns define abutting neighbors as anyone within 100 feet in all directions, including across the street and across streams and rivers. There is apparently some debate on this issue as statutory language is somewhat unclear. I personally would concur with Attorney Rybak that the current 200 foot requirement should be maintained, particularly if that includes notification to properties across the street. Sometimes the property most affected by the proposal is the one across the street that has to LOOK out its window at the subject property on a daily basis, and they can often be in closer proximity to the place the proposed activity will occur than a neighbor on the same side of the street whose home is set further back. In zones where the lot sizes are small, an activity could conceivable affect the entire street; however, only the house on both sides and in back would be notified. In my personal opinion neighbors others than those immediately abutting have just as much right to be noticed so they can weigh in on the proposal at a public hearing.

12. Section 9.3 - Accessory Apartment - Changes requiring the apartment not be for income generating purposes - Rather difficult to implement in the real world.

I surmise that this is to ensure accessory apartments are only used for extended family members. I can appreciate why this might be a concern. I have not seen the specific language proposed here, but my gut instinct tells me that practically speaking, this is proposed amendment going to be absolutely impossible to enforce. Other than the applicant crossing their heart and solemnly swearing before you that they will never charge rent for the apartment - what proof are you going to require that they submit to ensure this is the case? Yes, they can sign a letter and state on the record to you that the person using the apartment will be an elderly relative staying so they can ensure they are well cared for; in most cases this will probably be true. But when it is not true - what are you then going to expect the ZEO, as your enforcement agent, to do? Are they to conduct an extensive research into the property owner's financial records to see if they've been collecting rent? Are they to stake the place out to verify if the tenant is indeed an elderly person? While you certainly can fine the property owner for zoning violations if you have a zoning fine ordinance in place, the ZEO won't be able to kick the paying tenant out because there are other State rules

that govern landlord-tenant law. ZEOs are not police officers and they do not have police officers' resources or authority. Zoning works best if we understand its limitations up front.

I'd also like to respectfully point out that the elderly relative the accessory apartment may honestly have been planned for will in fact one day move on - either to other living arrangements or to the Great Beyond. What is the home owner then to do with this accessory apartment? Do you want them to have to rip out all those features that made the accessory apartment possible? Or could this tastefully designed accessory apartment that met all the requirements of a special permit application such as that the "single family character of the neighborhood has not been affected" instead perhaps now be used in order to help the Town meet the State's requirement that at least 10% of all residences in the Town be designated as "affordable"? Food for thought...

I suspect the concern is not truly about whether rent is being paid as it is about potentially having multi-family dwellings in areas they were not intended. Once again, perhaps more research into this issue and discussion with a Certified Planner to find better ways to reach your real goal is required before implementing a policy change.

13. New Section 9.6 which would eliminate the 1000-foot setback for establishments selling or serving alcohol as long as all other applicable CT laws are followed poses some serious concerns in light of the State's new laws permitting Medical Marijuana Dispensaries.

This causes me a GREAT deal of concern for all the reasons those at the January 27th meeting cited. The Planning Commission rightly stated that the advice of Town Counsel should be sought. Attorney Rybak in turn issued information that should give the Commission members strong reason to seriously think about the wisdom of this choice. Commission member Buonocore cited another valid concern. Let me give you an additional reason to reconsider this idea.

The CT Department of Consumer Protection recently established regulations that provided the framework for how medical marijuana producers and dispensaries could establish their businesses in Connecticut. Many area towns, including one that I currently work in, are now actively soliciting counsel from law firms that specialize in land use regarding how zoning regulations intersect with this new frontier in commercial business. The attorneys providing counsel to that Town advised about the extensive process these facilities must undergo when seeking State approval and while there is much still unknown in how this is going to play out and the regulations are somewhat unclear on the issue of zoning, those attorneys appeared to believe that a Town would be able to regulate the location of medical marijuana dispensaries to a similar extent that they regulate such other businesses that general consensus has made unpopular establishments to have in your backyard - such as those that sell alcohol or dispense gas and purvey adult entertainment. If we don't regulate the location of alcohol vendors, do we risk not being able to regulate the location of a potential medical marijuana facility? It is an admittedly unlikely event, but what if the State decided that, similar to adult entertainment, where a Town cannot outright ban it from being allowed into some location in the Town and must by law specify at least one place that was a potentially suitable location, towns were then required to implement the same strategy for medical marijuana dispensaries. Unlike such things as the ATVs discussed earlier, it IS an appropriate action and in fact a DUTY for the Zoning Commission to designate where in Town each of these types of establishments are best located, and they ostensibly do so for practical concerns related to what Town residents Elizabeth O'Connell and Mary Ellen Connors both stated at the January 27th meeting -- the right direction of the Town and making Harwinton better. **At the January 27th public hearing, Elizabeth**

O'Connell smartly suggested that the Town look at the worst-case scenario with what is being proposed; given what I just discussed, even though it is incredibly remote, how do we all feel about a medical marijuana dispensary in the Post Office Plaza right across from the elementary school?

As I said, this is a highly unlikely outcome; but it does serve to show how such well-meant but poorly thought out decisions as this regulation change can have some pretty significant long term unintended consequences. And to be clear, I am certainly not saying a restaurant serving drinks equals a medical marijuana dispensary or an adult entertainment shop. I personally would love to have a restaurant in town where I could sit down and have a glass of wine with my meal. I certainly appreciate the desire to improve the commercial offerings of our town, and I personally would love to figure out a way to develop and expand a Town Center here in Harwinton. I think this is a laudable goal, and well worth pursuing. But you can't charge forward on impulse without duly researching the possibility for those all-too-common unintended consequences.

The goal of expanding our Town Center without question is something that would best be done with input from a Certified Planner. A planner's whole reason for existence is to help towns and cities figure out what they want to be "when they grow up." If we want to create a Town Center, let's invest in this idea and come up with a legitimate action plan. Let's get a Certified Planner in to provide the experience we need to do this. If all we really want to do is find a way to allow existing restaurants to serve beer and wine, like Attorney Rybak stated, I am sure we can get there without implementing something this drastic. But either way, let's get the professional assistance we need to DO IT RIGHT.

14. Changes regarding Special Exceptions?
Special Exceptions are essentially interchangeable with Special Permits. I am unclear why we would even need such a regulation; however, whatever this was is no longer being considered. However I would point out that there are several places in the regulations where Special Exceptions are referenced instead of Special Permits; for continuity one single term should be used throughout the regulations.

15. Section 13.3.2 - Extension of timeframe for restoration from 2 years to 5 years.
I can understand Mr. Truskauskas' concern but I do concur with Attorney Rybak's suggestion that it remain 2 years with the ability to extend up to 5 years subject to the Commission's approval. I am sensitive to the legitimate concern about insurance companies dragging their feet, but imagine being the next door neighbor to the property that was destroyed and is sitting unrepaired for 5 whole years; imagine trying to sell your own home during that same time period. The Commission can be understanding of legitimate concerns while still retaining some necessary discretion.

16. Section 14.4.5 - Amendments permitting crushing onsite – Proceed with caution - could be acceptable with certain very specific conditions attached but the policy needs more work.
In my experience, one of the consistently LEAST popular types of applications that also consistently generates the MOST ire from neighbors is the Sand and Gravel/Earth Excavation Operation. I can see how permitting onsite crushing as proposed would indeed have the potential to eliminate truck traffic in and out of the site. However, I would also point out the crushing can be very loud. If it is permitted, there should be VERY SPECIFIC conditions dictating the time of day and week that this can be performed.

Additionally, there is enormous potential for abuse of this largesse. Both I as someone who works in land use, and my husband, as someone who works in road construction, can easily see the excavation

permittee saying something to the effect of "Aw shucks, I accidentally crushed too much material - can I now please sell the extra?" and voila! Your truck traffic has just increased. If this is going to be permitted, I think there should be very specific conditions about the amount permitted to be crushed and attention to the scale of the project. If the site the crushing is taking place on is only 2 acres, there is a limit to what can be excavated and crushed. If the site being developed is 50 acres in size and a lot of development is planned, the crushing part of the project could last many years and become a significant disturbance to those in the surrounding area, especially in a residential neighborhood.

For reference, one of the towns I work in does not permit onsite crushing. The other town does permit it, but it requires an additional application over and above the application for excavation. This additional application requires that processing of materials may not occur within 200 feet of any property line, and no more than 5 acres of land can be actively excavated, used, or without topsoil at any one time.

While the intent here to eliminate truck traffic was laudable, I respectfully suggest that this issue requires a great deal more consideration and input that has occurred to date. Once again, more research seems to be required.

With apologies for the long length and exhaustive nature of this letter, I feel I cited numerous valid concerns. To reiterate, I do believe these volunteer citizens have their hearts in the right place, and I respect them for their well-intentioned efforts. But the consistent refusal to solicit and obtain a qualified ZEO or certified planner's input on proposed land use decisions gives the impression that there is some mistrust of the role a Certified ZEO can and should play. **With all due respect and appreciation for the Commission members' civic spirit and love of the Town, Land Use is NOT what many of these citizen volunteers do for a living on a daily basis, and there is a reason that professional planning, zoning, and land use officials with many years of training are vitally necessary to the smooth and orderly running of a Town.** The citizen members of these Boards and Commissions can and should drive the discussion and guide the Land Use professional, but the Land Use professional's job is to help them achieve their goals while maintaining legal accountability and sound, sensible long term planning while taking into account a wide variety of issues that ordinary citizens may not have even considered because they deal with this topic so infrequently. You CAN still keep the small town character of this town while having a professionally run, legally unassailable, Land Use office - the Town of Goshen is an excellent example of this. **The members of this Commission have very good intentions, but with respect, the danger lies in the fact that they do not know what they DO NOT KNOW.** I am sure Attorney Rybak would agree that people are usually advised not to represent themselves in court - we are strongly encouraged to hire a lawyer for that. The same principle holds here in Land Use, as land use litigation is notoriously one of the largest cost drivers for a municipality. Several people in Town, some of whom may very well be on the Zoning Commission, expressed dissatisfaction with the additional expenditure of $400,000 on the ambulance project. Have these people considered that ANY ONE of the issues I've brought up over the past six months could have potentially cost the Town just as much money as the ambulance project in the form of lawsuits and appeals? The Town is being penny wise and dollar foolish.

All of these items I have described highlight the Town's urgent need for professional land use assistance on a more reliable and active basis in office hours and at meetings. I've personally provided several other examples over the past 6 months that further demonstrate this need. Nothing has changed. **In everyone's recent memory, a Town Commission enacted amendments that ultimately led to a lawsuit that cost the Town a great deal of money before the amendments were ultimately rescinded. I fear we may now be**

repeating history. How much more Town tax money has to be lost in legal fees from lawsuits before the Town realizes that a well-written professional set of Zoning Regulations and a part-time certified Zoning Enforcement Officer at meetings is actually cheaper in the long run? **This is not a "nice to have" kind of thing - this is a MUST HAVE kind of thing in order to limit the Town's legal exposure and in my opinion as a citizen, the failure to do so despite repeated warnings borders on negligence.** Part of citizen volunteers' duties in serving on a board or commission as a part of being accountable to the Town residents that elect them means being open to admitting when you are in over your own head and need help from an outside professional with the necessary experience. We truly do not expect you to know everything. We DO expect that due diligence be followed prior to making decisions with such potentially costly ramifications. **Every other Town in the area that I am aware of has professionally developed regulations and a properly trained, Certified ZEO on staff for office hours and meeting attendance. It is HIGH TIME Harwinton followed suit.**

I feel it important to state that I am not doing this because I am seeking to gain employment with the Town of Harwinton as I am entirely satisfied with my current employment status. I am doing this because I am a resident and a taxpayer, and I truly care about the character of this town and limiting its exposure to costly unnecessary land use litigation. I literally spent TWELVE HOURS on my Sunday day off researching and commenting on all these concerns I listed above. This is how serious I believe the potential consequences to be.

I fervently hope that, after reading some of this, the Zoning Commission will have the good sense to continue the public hearing still further and perhaps withdraw the entire application in order to solicit the input and assistance of a Certified Planner -- after all, since the Commission itself is the applicant here, the traditional time tables for closing a public hearing and rendering a decision do not have to be followed.

Thank you for your time,

Stacey Sefcik

Stacey Sefcik
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