

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

Also Present: Town Counsel Michael D. Rybak and Michael D. Rybak, Jr.

Absent: William Ponte and Michelle Rewenko

**PUBLIC HEARING #1**

**1. OPEN HEARING – ESTABLISH QUORUM.**

Acting Chair C. Kasey called the hearing to order at 7:00 p.m. All regular members present are seated with Alternate Member T. Root seated for W. Ponte and Alternate Member D. Foster seated for M. Rewenko.

**2. ZONING COMMISSION PRESENTATION TO CONSIDER OPTING OUT OF PUBLIC ACT 21-29, SECTION 6, ACCESSORY DWELLING UNITS.**

Acting Chair C. Kasey reads the Exhibit List as prepared by LUC Redmond and includes the following:

- A) Opt-out proposal/Resolution prepared by the office of Guion, Stevens & Rybak
- B) Legal notice published in Republican American newspaper on 4/15/22 & 4/22/22
- C) Notice sent to Northwest Hills Council of Governments and to Naugatuck Valley Council of Governments
- D) Notice sent to Harwinton Town Clerk 3/30/22
- E) Notice sent to Harwinton Board of Selectmen 3/30/22
- F) Notice sent to Harwinton Planning Commission 3/22/22
- G) Report of the Planning Commission in accordance with 8-3a(b)
- H) Zoning Regulations dated 12-3-2021
- I) Harwinton Zoning map
- J) Harwinton Sewer map
- K) WPCA Regulations
- L) WPCA information on the amount of capacity Harwinton has left with Torrington  
(per 1<sup>st</sup> Selectman, Michael Criss, the Town of Harwinton has zero capacity left)

Also in the file are Zoning minutes of 3/14/22 where a motion was made to set the public hearing and other miscellaneous Zoning minutes from when discussion took place on PA 21-29.

LUC Redmond states that the Zoning Commission spent considerable time discussing PA 21-29 and she wrote a draft proposal on a Zoning Regulation for Accessory Dwelling Units using some language from other town's regulations on them. It was determined that the draft did not completely mirror the language of the Act and by not taking the exact verbiage from PA 21-29, the Zoning Commission was informed by Town Counsel Michael Rybak that the proposed regulation could not be adopted.

Tonight Atty. Michael Rybak states that the Town of Harwinton must either adopt the Act as a use of right, with no conditions, no public hearing, no separate charge for utilities per unit, without requesting that a dwelling be subordinate and unable to require that the existing property be brought up to code. It also does not take any consideration of sewer connections, which the town is at zero capacity allotment from the City of Torrington, noting that the Zoning Commission recently approved 36 units in a multi-family zone off Twenty-four Bumper Road with sewer connections that exhausted Harwinton's capacity. Atty. Rybak notes that there are parcels in the northwest corner of town that have sewer connection rights that at some point may connect and those rights cannot be taken away. The requirements outlined in the Act must be followed if adopting a regulation on Accessory Dwelling units or opt out. He states that what this Act does is it takes single family dwellings and creates two-family dwellings without any definition and believes this is not what Harwinton wants in accordance with the Plan of Conservation and Development and that the state has created a one-size-fits-all Zoning and it does not work for all towns in Connecticut.

The Planning Commission met on 4/13/2022 and recommended that the Zoning Commission consider opting out of the requirements of PA 21-29, Section 4(d)(9) and Section 6 because of the uncertainty of the effect of the Act on the Town of Harwinton and that the Zoning Commission should continue to work on a regulation for Accessory Units/Apartments keeping the Plan of Conservation and Development, affordable housing and elderly housing in mind. Their report remains on file.

3. **CONTINUE OR CLOSE PUBLIC HEARING.**

T. Root **motioned** to close the public hearing at 7:09 p.m., seconded by D. Foster. Motion passed unanimously.

PUBLIC HEARING #2

1. **OPEN HEARING – ESTABLISH QUORUM.**

Acting Chair C. Kasey called the hearing to order at 7:09 p.m. All regular members present are seated with Alternate Member T. Root seated for W. Ponte and Alternate Member D. Foster seated for M. Rewenko.

2. **ZONING COMMISSION PRESENTATION TO CONSIDER OPTING OUT OF PUBLIC ACT 21-29, SECTION 4(D)(9) WHICH GOVERNS PARKING REQUIREMENTS FOR ACCESSORY DWELLING UNITS/APARTMENTS.**

Zoning Commissioners state that there was not much discussion on parking for accessory dwelling units/apartments nor did they believe much discussion was needed for this part of the Act. Michael Rybak is unsure why this section regarding parking was ever even tied to Accessory Dwelling Units and is not sure what parking has to do with them.

3. **CONTINUE OR CLOSE PUBLIC HEARING.**

D. Thurston **motioned** to close the hearing at 7:12 p.m., seconded by T. Root. Motion passed unanimously.

REGULAR MEETING

1. **OPEN MEETING – ESTABLISH QUORUM.**

Acting Chair C. Kasey called the meeting to order at 7:12 p.m. with the same quorum of members seated.

2. **APPROVE MINUTES OF PREVIOUS MEETING: 4/11/2022**

D. Thurston **motioned** to approve the minutes of the previous meeting, seconded by D. Kovall. Motion passed unanimously with D. Foster and T. Root refraining from vote due to their absence at the previous meeting.

3. **PUBLIC COMMENT.**

None.

4. **DISCUSSION/POSSIBLE DECISION - CONSIDER OPTING OUT OF PUBLIC ACT 21-29, SECTION 6, ACCESSORY DWELLING UNITS.**

T. Root states that he believes the Town of Harwinton has no choice but to opt out of Public Act 21-29, Section 6 with D. Foster agreeing stating his belief that it is not in the best interest of the town.

D. Kovall **motioned**, therefore, be it resolved, that the Harwinton Zoning Commission hereby affirmatively opts out of the provisions of Public Act 21-29, Section 6, and hereby advances said Resolution to the Harwinton Board of Selectmen, to complete this process by considering this opt-out Resolution, or one substantially similar to it, at a public meeting of said Board, and by approving this Resolution, or one substantially similar to it, by a vote of no less than a two-thirds majority of said Board.

Reasons for this motion is that the existing Harwinton Zoning Regulations provide for a diversity of housing without creating an undue concentration of population or the creation of congestion on public highways while protecting public health, all of which would be negatively affected by the as of right approval process for accessory dwelling units/apartment as provided in Section 6 of Public Act 21-29.

D. Thurston seconded the motion and it passed unanimously.

**5. DISCUSSION/POSSIBLE DECISION - CONSIDER OPTING OUT OF PUBLIC ACT 21-29, SECTION 4(D)(9) WHICH GOVERNS PARKING REQUIREMENTS FOR ACCESSORY DWELLING UNITS/APARTMENTS.**

D. Foster **motioned** that based on the information provided, be it resolved that the Harwinton Zoning Commission hereby affirmatively opts out of Section 4(d)(9) of Public Act 21-29, and hereby advances said Resolution to the Harwinton Board of Selectmen, to complete this process by hearing and considering this opt-out Resolution, or one substantially similar to it, at a public meeting of said Board, and by approving this Resolution, or one substantially similar to it, by a vote of no less than a two-thirds majority of said Board.

Reasons for this motion is that the Connecticut General Assembly adopted Public Act 21-29, Section 4(d)(9), requiring municipalities to amend their land use regulations so as not to require more than one parking space for each studio or one-bedroom dwelling unit or more than two parking spaces for each dwelling unit with two or more bedrooms and the town does not agree with the relationship of it to accessory dwelling units/apartments.

T. Root seconded the motion and it passed unanimously.

**6. COMPLAINTS/ENFORCEMENT ACTIONS.**

ZEO D. Truskauskas informs the Commission that the activities of Dakota Hock at 833 Hill Road are ongoing which he feels is in violation of the Cease-and-Desist Order issued. He has asked Atty. Mancini what the next steps would be but he has not heard back from him at this time.

ZEO D. Truskauskas informs the Commission that Wesley Cyr is building a house at 96 White Oak Drive with no erosion control installed and dirt entering the road with no tracking pad. He spoke with Mr. Cyr who told him that he would take care of it but has not as of today. Public Works Director Dave Bousquet also said that nothing has been done after he visited the site. ZEO Truskauskas believes a Cease and Correct Order should be issued with Commissioners in agreement that one should be sent to Mr. Cyr.

ZEO D. Truskauskas reports on the drainage at Sunset Ridge and that the Commission is still waiting for an engineer's report that the Zoning Commission requested. Recent complaints with photos have been received in the Land Use office and forwarded on to Commissioners and the ZEO. Lillian Busse, 15 Hannah Way, is in the audience and referring to the last four houses that will not receive Certificates of Occupancy, asks if that is only for when the road is completed? ZEO Truskauskas replies, no, the C.O.s will not be issued until all Zoning requirements are completed to the satisfaction of the Commission.

On April 20, 2022, Lillian Busse sent photos and narrative stating the photos "show the orange discharge and explains that behind Unit 9 is a green drain grate. This drain collects the water from Unit 10 roof gutter and all the ground water runoff from Units 9, 10, 11, 12 and 13. Unit 9 drain connects to the drain grate behind unit 7. The pipe between Unit 7 and 9 has the roof drains from Unit 7, 8 and 9 connected to that pipe. Unit 7 drain grate also collects the ground water from Units 7, 8 and part of 9. Unit 7 drain has the sink hole that is getting worse and now had another sink hole on the side that the owner started to fill. The sink holes are a safety issue. The pipe that connects between the 2 grate drains has the orange substance in it. The grate drain in Unit 7 has a pipe going to the basin. When Len [Lopardo] had the basin inspected in September 12, 2021 the basin was overgrown. They did not include this inlet." A second complaint received from Lillian Busse on the same day includes photos that show "erosion and water on Unit 30 that comes from ground water runoff on the

side of Unit 29 and the unbuilt units in the back units 27 and 28. It was mentioned to build a swale between Unit 29 and 30 to get it established so when Unit 27 and 28 get built it will be able to handle the ground water runoff. We do not want a drain and a buried pipe to deal with like the one behind Unit 7.”

D. Foster notes that the Commission wanted an independent engineer to inspect the infiltrators with T. Root stating that a letter should be sent to Len Lopardo requesting this report be submitted so it is known that what has been installed has been installed correctly. ZEO Truskauskas will draft a letter and forward it on to LUC Redmond to print out on letter head and send certified.

**7. ELECTION OF OFFICERS.**

Resignation received from Commissioner/Chairwoman Michelle Rewenko 4/13/2022.

Commissioners will hold a Special Meeting on Monday, May 23, 2022 at 6:55 p.m. to fill the vacancy left by Commissioner Michelle Rewenko and to hold a vote on Election of Officers.

**8. ANY OTHER BUSINESS.**

None.

**9. INVOICES.**

None.

**10. ADJOURN.**

D. Kovall **motioned** to adjourn the meeting at 7:45 p.m., seconded by D. Foster. Motion passed unanimously.

Respectfully submitted,

Polly Redmond  
Land Use Coordinator

