

HARWINTON ZONING COMMISSION
TUESDAY, OCTOBER 10, 2017
TOWN HALL 7:00 P.M.

Present: Chairwoman Michelle Rewenko, Cynthia Kasey, Deborah Kovall, Daniel Thurston, Matthew Szydlo, Alternate Member Brooke Cheney, Alternate Member Don Truskauskas, Land Use Coordinator Polly Redmond and Zoning Enforcement Officer Thomas Mitchell
Also Present: Town Attorney Michael D. Rybak

PUBLIC HEARING – continued from 9/25/17

1. OPEN HEARING – ESTABLISH QUORUM.

Chairwoman Rewenko called the hearing to order at 7:00 p.m. All regular members present are seated.

2. PRESENT COMMISSION-INITIATED PROPOSED ZONING REGULATION AMENDMENTS AS FOLLOWS:

Zoning Regulation 2.3 Definitions – to add *definition of Affordable Housing Development* that includes definitions of “*Assisted Housing*”, “*Set-aside Development*” and “*Median Income*”.

Zoning Regulation 4.7.2 Special Permit Uses in Multi Family Zone to include 4.7.2c adding that Affordable Housing Developments are permitted by Special Permit in a Multi Family zone *only* and adds limitations to eligible applicants.

Zoning Regulation 6.5 Keeping of Animals to add regulations concerning poultry; that poultry shall be contained on owner’s property by use of pens or fencing if necessary.

Zoning Regulation 6.17 Storage Sheds – to delete the first paragraph of the regulation concerning the appearance of sheds in the Lake Harwinton Association.

Zoning Regulation 6.19 Use of Home for Personal Business – to delete the existing wording and replace with new wording under title of *Home Based Business – Minor*.

Zoning Regulation 9.4 Home Occupations – to delete the existing wording and replace with new wording under title of *Home Based Business – Major*.

Chairwoman Rewenko reads the report of the Planning Commission to fulfill State Statute 8-3a. **(Exhibit E)**

***Exhibit I** are copies of Zoning minutes from meetings when discussion of the proposed regulation amendments took place.

***Exhibit J** is a Statement of Purpose from the Zoning Commission.

Commissioner M. Szydlo makes a point of note that the Zoning Commission has heard many opinions on these proposed regulation amendments at the opening of this public hearing on 9/25/17 and that everything the public said was valuable. He states that the proposed revisions is not about Republicans or Democrats; that “we all” live in Harwinton and the Commission is trying their best to represent “you”. The Commission does not want to over regulate but are trying to make the regulations as clear as possible.

Chairwoman Rewenko wants to make it understood that the Commission is not at any point making a decision tonight on the proposed regulation amendments and that it might be a long time before they do.

Commissioner B. Cheney informs the public that the Commission will be going through the proposed amendments each topic at a time allowing for public comment on each one.

Chairwoman Rewenko reads the proposed Zoning Regulation on Affordable Housing to be added to existing Zoning Regulation 4.7.2 and explains that the Zoning Regulations had nothing on Affordable Housing; no definitions and no rules. The Commission felt it important to have something in the regulations and they looked at the Town of Litchfield's regulation and based some of that wording into the proposal. Atty. Rybak makes comment that Affordable Housing is a complicated subject and he suggests that the Commission look at this separately at another time. Chairwoman Rewenko notes that Atty. Steven Byrne also weighed in on the proposed regulation for Affordable Housing. She states that the Commission will regroup on this proposal on the advice of the town attorney and also in response to the report of the Planning Commission.

At this time, Chairwoman Rewenko opens the floor to public comment on Affordable Housing.

Anne Marie Buonocore, 137 Woodchuck Lane, states that she is a past Zoning Commission member and has attended meetings at the Capitol on Affordable Housing where it was explained to her that Affordable Housing doesn't have to be in every town. That the State of CT would like to see Affordable Housing in towns where there is public transportation, public water and sewer facilities.

Chairwoman Rewenko states that there have been individuals who have mentioned developing land for Affordable Housing and the Zoning Commission wanted something in the Zoning Regulations if an application did come before them.

Commissioner B. Cheney states that there are State Statutes that in every town a percentage of homes must be Affordable Housing.

Verna Moran, 2 Hannah Way, questions whether there would be a type of housing for Affordable Housing. Her concern is based on what she has seen in Torrington where there is Affordable Housing and the police are always there and that it has affected that area of town. She questions how Affordable Housing would affect Harwinton if it were allowed. She understands the need but one must be careful as to what it would attract. Commissioner D. Kovall states that it is not the intent to open up and invite developers to construct Affordable Housing rather it was an attempt to limit where affordable housing could be built. The Commission looked at this proposed regulation as a pre-emptive, preventative strike. The State of CT has mandated that all towns must have Affordable Housing for low-to-moderate income people, seniors and young families starting out, and the law does not segregate by race, class or gender, only affordability. The Commission's intent with the proposed regulation was to limit, but not limit with discrimination, and without regulations in place it leaves the door wide open. She refers to the Medical Marijuana regulation the Zoning Commission passed in 2015. No one applied for such a facility but a public hearing was held on the proposed regulation to prohibit them.

Mark Unhoch, 48 Rock Brook Road, questions what percentage of town has public water and sewer to which the Commission is unsure. He questions if areas with water and sewer is the only area where Affordable Housing could be developed with Commissioners stating, those would be the requirements.

James Pabilonie, 96 Harmony Hill Road, gives a word of caution for allowing Affordable Housing. He states that Harwinton is a homogenous town with nice homes and nice lawns and Affordable Housing is a slippery slope. He recalls when he lived in Windham that a private developer, who had no allegiance to the town and only wanted to make money, developed Affordable Housing and it ruined Windham. If this were to happen in Harwinton, Harwinton would have to live with those results. He asks that the Commission keep this in mind, that Affordable Housing could change the complexion of this town.

Chairwoman Rewenko states that the original proposed regulation for Affordable Housing did not include or allow “private developers” to make application. It is the report of the Planning Commission and their suggestion that if private developers were included as someone who could make application for Affordable Housing, then they, as a Planning Commission, would give a favorable review on this proposed regulation.

Meg Begley, 552 Wildcat Hill Road, speaks of expensive real estate in Harwinton and that the Harwinton population is aging. It is important to bring in young people and that Harwinton will not become a ghetto by bringing in all economic levels.

At this time, Chairwoman Rewenko reads current Zoning Regulation Section 6.5 Keeping of Animals and the proposed regulation amendment informing the public that there have been several complaints received in the Land Use office regarding wandering chickens destroying neighboring properties.

The floor is open to public comment on Zoning Regulation 6.5 Keeping of Animals.

Terri Christenson, 11 Silver Lane Pass, states that her only issue with the proposed regulation is if her neighbor had five chickens, that would be okay, but if her neighbor had 50 chickens, she wouldn't be too happy with that. She asks whether the number of poultry could be limited.

Commissioner C. Kasey states that the number of chickens on a property comes down to area health.

Commissioner D. Kovall states that there are other bodies of government that cover certain points on housing of poultry, smell, etc. and that the Zoning Commission doesn't go outside of their purview but works alongside with the Inland Wetlands Commission and Torrington Area Health District.

Scott Sadler, 93 Orchard Hill Road, questions the proposed regulation regarding keeping of animals for Private vs. For Profit.

Chairwoman Rewenko explains the difference in the regulation stating that if slaughtering of poultry is taking place on the property and selling them from the property that that would make it a For Profit operation.

Scott Sadler states that perhaps dogs and cats should be included because they could be a nuisance also.

At this time, Chairwoman Rewenko reads current Zoning Regulation Section 6.17 Storage Sheds and the proposed regulation amendment informing the public that the appearance of sheds in the Lake Harwinton Association is not under the jurisdiction of the Zoning Commission.

The floor is open to public comment on Zoning Regulation 6.17 Storage Sheds to which there is none.

At this time, Chairwoman Rewenko reads current Zoning Regulation Section 9.4 Home Occupation and the proposed regulation amendment titled Home Based Business, Major informing the public that the Commission is not going to make any decision on this proposed amendment for quite some time.

Chairwoman Rewenko notes that Zoning Regulation 4.2e already allows for two non-resident employees. In spite of rumors, there is no mention of parking lots in the proposed regulation. Proposed regulation 9.4.1c does call for any material stored on the property to be clearly marked on a site plan and it may be required that areas of storage be screened from view with landscaping. Chairwoman Rewenko notes that buffer requirements are also found elsewhere in the Zoning Regulations. In regards to proposed regulation 9.4.1d allowing commercial vehicles weighing less than 19,500 pounds on the property in connection with a home-based business, Chairwoman Rewenko points out that current Zoning Regulation 6.20 Overnight Parking of Commercial Vehicles in a Residential District already permits this and that is where the language was borrowed to be included in this proposed regulation.

Chairwoman Rewenko reads current Zoning Regulation 6.19 Use of Home for Personal Business and the proposed regulation amendment titled Home Based Business, Minor. The proposed regulation would allow for one non-resident employee and no clients coming to the premises. The proposed regulation would also allow for commercial vehicles as found in Home Based Business, Major and in Zoning Regulation 6.20.

Chairwoman Rewenko notes that the Planning Commission did not give a favorable report on the proposed regulations for Home Based Businesses and Atty. Rybak has suggested that the Commission look at the proposals again. At this time, Chairwoman Rewenko reads into the record a portion of a statement from Land Use Coordinator Polly Redmond (**Exhibit K**) that explains the difference between Home Occupations and those businesses listed in the Town of Harwinton Business Directory and also the permitting process for Home Occupations.

Chairwoman Rewenko is in receipt of and reads into the record a letter dated 10/10/17 from Thomas Schoenemann, Chairman of the Harwinton Economic Development Committee. The letter states that the EDC stands by their 12/15/15 letter to the Zoning Commission proposing revisions to their Zoning Regulation amendment calling for the allowance of up to three (3) clients on the premises at any one time instead of two and allowing for two non-resident employees. The letter also states that the EDC proposes that if all constraints regarding impact on the neighborhood are met, home based businesses should be allowed to have clients in the home and that approximately 120 home based businesses in Harwinton already deal with clients in the home.

Chairwoman Rewenko is in receipt of, and reads into the record, a letter from resident Victoria Elliott, 10 Litchfield Road, who states she is in favor of allowing home businesses that are quiet and inside the home or in an already existing garage or barn and allowing for four residential vehicles per business, including trucks or small vans, which would allow for clients to be on the premises. She asks that large trucks not be allowed such as bucket trucks, garbage trucks or those used for large hauls. She suggests that fees not be imposed on small businesses. Her letter states that people who are worried about property values should consider that not allowing for small quiet home based business is more likely to hurt property values for the younger generation who will be future home owners as they are more likely to have computer and home based businesses. Lastly, her letter asks that accessory apartments be allowed as rental apartments.

The floor is open to public comment on Zoning Regulation Section 6.19 Home Based Business, Minor and Zoning Regulation Section 9.4 Home Based Business, Major.

Paul Honig, 71 Town Line Road, has question on the borrowing of language from Zoning Regulation 6.20 regarding parking of commercial vehicles and questions the number of commercial vehicles allowed on the property in connection with a home-based business.

Chairwoman Rewenko states that the proposed regulation for Home Based Businesses will allow for one commercial vehicle per property which is the same regulation found in Section 6.20.

Terrance Kelly, 7 Scoville Hill Road, speaks on the topic of blight. He is informed that if he would like to discuss the Blight Ordinance, he must wait until the regular meeting that will follow this public hearing.

Shawn Savickas, 384 Burlington Road, states that he is a business owner in town for almost six years. He rents a building and is a licensed used car repair facility that has no employees and no payroll. He states he owns a tri-axle which exceeds 19,500 pounds. His business is listed as an auto shop, Harwinton Auto, on Clearview Avenue located in a small legal commercial area that has time constraints placed on the hours of operation from his rented building. The majority of his work is done at night but he can't take his tri-axle truck to his shop because of those time restrictions so he is forced to take it home. Referring to his property at 384 Burlington Road on the corner of Woodchuck Lane and Route 72, he states he would be hard-pressed to have anyone tell him how his corner residence differs from that of the Landing Zone or the sports complex, the storage units or Healing Trail, all located on Burlington Road. Unfortunately his property was never included in as commercial property. His property is residential land even though he sees the same traffic flow, has the exact same frontage requirement, setbacks and lot size in order to be granted as a commercial piece of property. He states that with these Zoning proposals, he would love to see them go through in order to present his specific case, to come before Zoning to try to have his residential property approved as business even though he knows there will be specific rules and regulations to follow.

Don Cromwell, 25 Mansfield Road, refers to Section 9.4 Home Based Business and what is not proposed in the new regulation that is in the old regulation is the wording allowing for a home occupation in a residential zone. He states he also has a problem with allowing for commercial vehicles up to 19,500 pounds to be parked on the property and that it leaves the door open to abuse.

Commissioner D. Truskauskas wants to clarify why the weight limit of 19,500 pounds came to be in Zoning Regulation 6.20 and it was because in speaking with the Town Highway Supervisor, the weight of the Highway Foreman's truck was 19,500 pounds and the Commission asked that this regulation be put in place in order for him to be able to take the town truck home.

Anne Marie Buonocore, 137 Woodchuck Lane, refers to the General State Statute on Affordable Housing. She notes that the CGS passed Affordable Housing in 2002 and that it is now just being discussed by Zoning. She states that Litchfield has seven Affordable Housing units, New Hartford has eight and Harwinton has four according to the state records. She states that Affordable Housing is defined as being something that someone could afford who earns 80% of the median income of the town. So she suggests the Commission look into that before completing the regulation on Affordable Housing. At this time she asks that each Commissioner introduce themselves, state their occupation and whether they have a home business or if any cease and desist orders have been placed on them.

Chairwoman Rewenko again reminds the public that the Commission will not be voting on these proposed regulations for a long time. If the Commission decides not to pass some regulation amendments, any changes to those amendments would be brought back to the Planning Commission for their review and if the Zoning Commission decides, another public hearing will be held with all the proper notifications.

Town Atty. Michael Rybak explains that the Commission has a choice to either keep the hearing open or to close it tonight and act on the non-controversial regulation amendments and table any decisions on Affordable Housing and Home Occupations or the Commission can vote to not adopt the controversial proposed amendments and bring them back with new language to a new public hearing. He recommends a new start to the proposed regulation on Affordable Housing and Home Based Business, Minor and Major.

Robin Turpin, 54 South Road, states she agrees with Town Atty. Michael Rybak and asks that the hearing be closed out and that the Commission only takes a vote on the non-controversial proposed regulations although she states there is nothing that would prevent the Commission from voting on the controversial proposals tomorrow after saying they would not.

Chairwoman Rewenko states for the record that this Commission will not vote on the controversial proposals and that it is fear mongering to state here tonight that the Commission could vote after saying they would not.

Payton Turpin, 54 South Road, states that this is procedural and will not go away. He goes on to speak about a present Zoning Commission member and litigation involving the town in reference to home business. The Commission reminded Mr. Turpin that the public must speak to the topic at hand.

Scott Sadler, 93 Orchard Hill Road, states that he has lived in Harwinton for a long time. Home based businesses have always existed in town and make up the fabric of the town. He is not sure of what is going on and why people are speaking up on it. He states the focus should be on people trying to make a living. With the number of homes under foreclosure, people need to work, and not all people are working as doctors, some have trucks, trailers and equipment.

Terri Christenson, 11 Silver Lane Pass, states that she has had a home based business for twenty years and believes the Zoning Regulations on home occupations need to be updated and also hours of operation need to be restricted in neighborhoods. She believes if a home occupation permit is that of a skilled practitioner such as a massage therapist, their license needs to be shown to the Commission when a home occupation permit is being considered. She presently has a home office that involved trucks and after her business grew, a warehouse was rented for the trucks and equipment but a home office was always kept. She believes home occupations are a great way to start a business but the regulations of today are not working so something must be done to change them.

Meg Begley, 552 Wildcat Hill Road, agrees that if you have a problem with your neighbor, you should be able to speak to them if it could be done, but asks that the town does not put residents in the position of pitting neighbors against neighbors. If 20% of businesses in town cause a problem, there would be a small minority of people who will have issues but if it affects one of us, it affects all of us. She states, because you have to put yourself in that position, and if I'm that neighbor, you're that neighbor. She believes that small businesses are the engine of the country but she just doesn't want to make it harder for neighbors to deal with it.

In response to the statement made by Ms. Begley, Commissioner C. Kasey states "We *are* the neighbors. All of the Commissioners are our neighbors and some are considered friends. We share a lot of the same value, concerns and love for this town."

Anne Marie Buonocore, 137 Woodchuck Lane, states that the Commission has received sage advice from Attorney Rybak but it makes her very nervous that one person is speaking for the entire Commission and that her question can't be answered about potential bias of members of the Commission who may have benefit from passing these regulations and that regardless of what the Commission says, they can turn around and pass all of these proposals after the public walks out of this meeting tonight. She has the right to say this without anyone saying, "no, it's not true.", that these are the facts.

Ted Root, 151 Burlington Road, thanks the Commission on doing what they were elected to do. Regarding the comments made that the Commission could go off and make their own decision, he recalls a proposed Zoning Regulation in 2010 when a majority of people were against the proposed regulation and the Zoning Commission members seated at that time went off and passed the regulation anyway. He understands people are fearful of this but he believes this Commission will not do that. In regards to home based businesses, he reminds the public that business is a lot different today then years ago. Today's businesses are done through computers and smart phones.

Cynthia Yanok, 122 Scoville Hill Road, states she has lived in Harwinton for 27 years and has worked from her home after the Zoning Commission inspected the premises in connection with her Special Permit application she submitted. She had no employees and only one client coming to her home. She followed the rules and protected the integrity of the neighborhood. She then refers to trucks that travel on her road, large trucks that affect people's lives in Harwinton. She suggests that the town attract businesses that are good for the neighborhood such as doctor's offices and the like, not businesses that involve trucks. She points out that trucks weighing 19,500 pounds can weigh even more than that when they are filled with material.

3. CONTINUE OR CLOSE HEARING.

Commissioner C. Kasey **motioned** to close the public hearing at 8:47 p.m., seconded by M. Szydlo. Motion passed unanimously.

Commissioner B. Cheney leaves the meeting due to illness.

REGULAR MEETING

1. OPEN MEETING – ESTABLISH QUORUM.

Chairwoman Rewenko called the meeting to order at 8:48 p.m. All regular members present are seated.

2. APPROVE MINUTES OF PREVIOUS MEETING: 9/25/17

C. Kasey **motioned** to approve the minutes of the previous meeting, seconded by M. Szydlo. Motion passed unanimously with D. Thurston refraining from vote due to his absence at the previous meeting.

3. PUBLIC COMMENT.

Terrence Kelly, 7 Scoville Hill Road, speaks of the Blight Ordinance and that he doesn't approve of the town telling him how high his grass could be and that if it's too high he must cut it. He understands it's not a Zoning issue and that the Zoning Commission didn't pass the Ordinance but he wants to state that he objects to it.

Public Comment – continued.

Ann Bott, 80 Lead Mine Brook, comments that the Zoning Commission should consider noise control in their regulations. She refers to a neighbor of hers that drives his ATV on his property frequently and the noise deprives her of enjoyment of her property. Commissioner D. Truskauskas informs her that the Torrington Area Health District has regulations on noise control.

4. DISCUSSION/POSSIBLE DECISION - COMMISSION-INITIATED PROPOSED ZONING REGULATION AMENDMENTS.

No discussion.

C. Kasey **motioned** to add to the agenda: **Todd Parent, application for addition to home, 221 Woodchuck Lane.** Request for waiver of engineered plan. D. Kovall seconded the motion and it passed unanimously.

Todd Parent is present and provides a copy of a 2007 site plan prepared by GM2 Associates. The proposed addition will be 20' x 36' for expansion of a bedroom and addition of a bathroom. The addition will not be used for an accessory apartment per Mr. Parent. TAHD is outstanding but Mr. Parent said that they required a B100a plan and they are in the process of reviewing his application. D. Kovall **motioned** to accept the request for waiver of an engineered plan, seconded by C. Kasey. Commissioner M. Szydlo **motioned** to approve the application with the condition that TAHD approval is received, seconded by D. Thurston. Both motions passed unanimously.

5. COMPLAINTS/ENFORCEMENT ACTIONS.

ZEO T. Mitchell submitted a report that there are no new complaints or information to report on.

6. ANY OTHER BUSINESS.

None.

7. CORRESPONDENCE.

None.

8. INVOICES.

None.

9. ADJOURN.

D. Thurston **motioned** to adjourn the meeting, seconded by C. Kasey. Motion passed unanimously.

Respectfully submitted,

Polly Redmond
Land Use Coordinator

RECEIVED FOR RECORD AT HARWINTON CT
ON 10/16/17 AT 2:18PM
ATTEST NANCY E. ELDRIDGE TOWN CLERK