

HARWINTON ZONING COMMISSION
MONDAY, MAY 14, 2018
TOWN HALL 7:00 P.M.

Present: Cynthia Kasey, Daniel Thurston, Matthew Szydlo, Deborah Kovall, Alternate Member Don Truskauskas, Alternate Member Theodore Root, Alternate Member Nancy Schnyer and Land Use Coordinator Polly Redmond
Absent: Chairwoman Michelle Rewenko

PLEDGE OF ALLEGIANCE

PUBLIC HEARING - continued

1. OPEN HEARING – ESTABLISH QUORUM.

Acting Chairwoman C. Kasey called the hearing to order at 7:00 p.m. All regular members present are seated with Alternate Member D. Truskauskas seated for M. Rewenko.

2. BUMPER BROOK ESTATES – PETITION FOR A ZONE CHANGE FROM LIGHT INDUSTRIAL TO NEWLY CREATED ZONE E – MULTI FAMILY ELDERLY HOUSING ZONE, TWENTY-FOUR BUMPER ROAD, ASSESSORS MAP NOS. A8-03-0003, A8-03-0004 AND A8-03-0006.

Atty. William J. Tracy, legal counsel for the applicant, is present along with Scott Bayne, S&W Custom Home Builders. Atty. Tracy reminds the Commission that the hearing was kept open for status of the WPCA application and although he doesn't have a complete answer tonight he states he did meet with Harwinton and Torrington WPCA and Torrington WPCA said there is capacity at the sewer plant. There is a proposal that Harwinton WPCA has and a drawing of the map extending the sewer line but no vote has been received yet and there is still the need for DEEP information.

Michael Criss, First Selectman and ex-officio of Harwinton WPCA, is present and gives the background of mapping in the sewer district and information on usage and wastewater collection capacity. 53,000 gallons are used in Harwinton with a current contractual agreement of 77,000 gallons per day with the City of Torrington that we get billed for no matter what. A letter from Wright-Pierce dated 4/27/18 (**Exhibit 17**) to First Selectman Michael Criss summarizes flows as follows: Current Sewer Users Connected equals 53,000 gallons per day of flow, Future Sewer Users Entitled to Connect equals 20,400 gpd, and Reserve Capacity at 3600 gpd. Mr. Criss points out that Bumper Brook Estates proposed elderly housing complex would use 6600 gallons a day. The letter goes on to say that in referring to the flows mentioned, "there does not appear to be sufficient capacity in Harwinton's currently allocated 77,000 gpd with the City of Torrington without utilizing all of the reserve capacity and possibly taking away capacity from a number of future sewer users entitled to connect that are already within the current sewer service area. Another potential option would be to obtain an allocation increase from the City of Torrington for the proposed elderly housing development." Mr. Criss notes that Wright-Pierce, in their 4/27/17 letter (**Exhibit 17**), gave Harwinton a cost to update the Sewer Service Area Map to reflect the addition of select parcels along Twenty-four Bumper Road including the proposed 30-unit elderly housing development which would not exceed \$1600.00. Mr. Criss adds that the applicant has agreed to pay for the cost to amend and adopt the revised WPC Plan.

Commissioner D. Kovall questions when the WPCA plant will be upgraded with Mr. Criss replying, in 2021 and Harwinton WPCA will then have to bond for the portion that is Harwintons. Mr. Criss notes that 24,000 "future" gallons are not being used currently but the town is still being charged for that regardless.

Commissioner D. Truskauskas questions of the 24,000 gallons, does that include the addition of Hannah Way (a road within Sunset Ridge, a 55 and older Multi-Family complex located off of Mount View Drive) with Mr. Criss stating the 53,000 gallons includes Sunset Ridge. Mr. Criss explains that there are three meters in use that are tracked daily by Harwinton and they are (1) the Clearview Avenue Extension Line, (2) the Scoville Hill Road Extension Line and the (3) Hannah Way (Sunset Ridge) Extension Line that the City of Torrington required. This project proposed by Bumper Brook Estates would be the fourth meter. Commissioner D. Truskauskas states that the biggest risk is to add usage with this project and have a high infiltration day increasing costs. Mr. Criss states that if there's one or two days of high infiltration, it isn't a problem, if more than that, it would be expensive. Atty. William Tracy states that to be over for a month you have to have a series of wet days with Mr. Criss adding that would be with such a case like Storm Sandy.

Commissioner M. Szydlo questions if Harwinton is under capacity with Mr. Criss stating that Ray Drew, WPCA Administrator, sent a letter stating he is okay with adding this project because Harwinton is not at capacity now. DEEP approval is also required and that shouldn't be a problem as long as Torrington agrees in writing. Gaining this approval from DEEP is something Wright-Pierce will do.

Commissioner D. Truskauskas questions Land Use Coordinator Redmond if there is anything in the file from Torrington regarding this with LUC Redmond replying, no.

Acting Chairwoman C. Kasey asked if a Torrington public hearing has been set. This is in reference to a 2/26/18 letter from Ray Drew, WPCA Administrator, to Rista Malanca, CZWEO, City of Torrington (**Exhibit 18**) where Ray Drew states in the letter that the applicant needs to submit a request for sewer connection which requires an 8-24 Referral to [Torrington] P&Z and that depending on 8-24 WPCA will need to schedule a public hearing. Mr. Criss replies in answer that, no, a hearing has not yet been set. Mr. Criss adds that an 8-24 (State Statute 8-24 Municipal Improvements) will also be required from Harwinton WPCA to the Harwinton Planning Commission on whether or not to extend the sewer line.

Atty. William J. Tracy states that the reason the process was started with Harwinton WPCA is because the buildings will be in Harwinton and the people will be residents of Harwinton.

Commissioner M. Szydlo asks if sewer users cover costs entirely with Mr. Criss stating yes, but not for gallons not used. Atty. William J. Tracy adds that it is a user funded system with users carrying the cost. He notes that there will be 36 other people paying in with this proposed development. Mr. Criss states that if this project didn't go through, sewer fees would go up for the new build-out of the WPCA facility in Torrington.

Commissioner D. Truskauskas asks if there is a timeframe on getting an approval with Mr. Criss stating that Harwinton WPCA is meeting the first week of June and will vote on this.

Atty. William J. Tracy notes that the Zoning Commission can keep this public hearing open until their July 9, 2018 Zoning meeting since he has given a letter of request for extension for an additional 65 days.

Acting Chairwoman C. Kasey states that she assumes all the tests required in the City of Torrington letter (Referring to Exhibit 18, the 2/26/2018 City of Torrington letter from Ray Drew, WPCA Administrator to Rista Malanca, CZWEO, City of Torrington involving metering station, testing, inspections, etc.) shall be done by Harwinton? Mr. Criss replies, yes. Atty. William J. Tracy states that once tested they will then be allowed to use and Mr. Criss adds that WPCA has the Harwinton Building Inspector testing to inspect the lines.

3. CONTINUE OR CLOSE HEARING.

Commissioner D. Truskauskas **motioned** to continue the public hearing to the next Zoning meeting scheduled for **TUESDAY, MAY 29, 2018** at 7:00 p.m. seconded by Commissioner M. Szydlo.

Atty. William J. Tracy states it's not likely they will have answers at that meeting because WPCA will meet in June but there can be discussion. Mr. Criss states he has suggested that WPCA hold a special meeting for this project and that they may do so but for now, it's slated for the first week of June. Motion passed unanimously.

REGULAR MEETING

1. OPEN MEETING – ESTABLISH QUORUM.

Acting Chairwoman Kasey called the meeting to order at 7:35 p.m. All regular members present are seated with Alternate Member D. Truskauskas seated for M. Rewenko.

2. APPROVE MINUTES OF PREVIOUS MEETING: 4/23/18

D. Truskauskas **motioned** to approve the minutes of the previous meeting with an amendment to page 4, line 5. To omit the word "inaudible" and add "Town of North Haven v Planning and Zoning Commission of Town of Hamden." D. Kovall seconded the motion and it passed unanimously by voting members C. Kasey, D. Kovall, D. Truskauskas and T. Root.

3. PUBLIC COMMENT. None.

4. BRYAN RIVARD – APPLICATION FOR 12' X 24' SHED, 97 MEADOWVIEW DRIVE.

No one is present to represent.

5. JONATHAN VON OY – APPLICATION FOR SINGLE FAMILY DWELLING, 237 HILL ROAD.

Mr. von Oy is present. Plans by Berkshire Engineering dated 3/16/18 titled Septic System Design prepared for Paramount Professionals, LLC, Lot 8 Hill Road are reviewed. Mr. Von oy explains that he would like to bring the driveway around to the back of the house adding approximately 30 feet of pavement. Commissioner D. Truskauskas states that with the majority of the driveway staying the same grade, the change in driveway can be shown on an as built. It is noted that 350 feet of the 700 foot driveway is already in, done by the previous owner at the time of subdivision. Mr. von Oy questions whether the pull-off locations can change with his desire to relocate the pull-off closer to the house. Commissioner D. Truskauskas again notes that the change can be shown on an as built. TAHD, IWWC and E&S permit are on file. Commissioner D. Truskauskas **motioned** to approve the application with the condition that the changes to the plan be shown on an as built, seconded by D. Kovall. Motion passed unanimously.

6. DISCUSSION/POSSIBLE DECISION – BUMPER BROOK ESTATES, LLC - PETITION TO AMEND ZONING REGULATION TEXT AMENDMENTS: ZONING REGULATION *SECTION 2.3 DEFINITION OF ELDERLY HOUSING.

***TO ADD A NEW ZONING REGULATION UNDER SECTION 4 PERMITTED USES AND SPECIAL PERMIT USES FOR EACH ZONE**

(NEW SECTION 4.10) TITLED ZONE E – MULTI-FAMILY ELDERLY HOUSING ZONE, THAT INCLUDES SUBSECTIONS TITLED STATEMENT OF PURPOSE, PERMITTED USES, SPECIAL PERMIT USES, STANDARDS AND REGULATIONS AND ADDITIONAL SITE PLAN REQUIREMENTS.

***TO AMEND ZONING REGULATION SECTION 5 LOT AREA TO ADD OTHER DIMENSIONS AND SPACE REQUIREMENTS TO INCLUDE REQUIREMENTS FOR ZONE E. (PUBLIC HEARING CLOSED 4/23/18.)**

Atty. William J. Tracy makes a Point of Order that those Commission members who were not at the previous public hearings should familiarize themselves with the record. If they can't make that statement that they have done so, then they shouldn't be seated to vote. Atty. Michael D. Rybak agrees with this and adds that any absent member should state for the record that they've read the minutes of the meeting they missed. Commissioner M. Szydlo states that he has not yet read the minutes of the hearings he did not attend, 4/9/18 and 4/23/18, and even though the minutes of those hearings were typed verbatim, he feels he is not eligible to vote. It is agreed that he can be part of discussion at this time but will not vote if a vote takes place.

Commissioner D. Truskauskas refers to the Planning Commission Referral and states he doesn't see it has a positive referral. He points out that their charge is to state that the proposals meet the Plan of Conservation and Development and the first statement of their Referral is that they aren't sure it does. He continues stating that reading the Referral from the Planning Commission is troubling to him and he thinks it should be clear for the Zoning Commission to vote and he feels it is not. He looks to Atty. Rybak for guidance. Atty. Michael D. Rybak states he sees it as a negative referral and reads the referral out loud mentioning that the words "not adopt" are in bold. Commissioner D. Truskauskas notes that the referral states that "the language is not comprehensive enough for the Planning Commission to properly determine whether it's consistent with the Plan of Conservation and Development." He refers to State Statute 8-3a(b) that states a proposal disapproved by the Planning Commission may be adopted by the Zoning Commission by a vote of not less than two-thirds of all the members of the Zoning Commission. If the vote ends up with a four-fifths or five-fifths then there would be no problem.

Atty. Michael D. Rybak states if the Commission wants clarification they should ask the Planning Commission, but since the public hearing is closed. Commissioner D. Truskauskas questions if it would be considered staff input with Atty. Michael D. Rybak stating it would be getting into a gray area.

Commissioner D. Kovall states that it is her feeling that the two Commissions need to work together and that a study should be conducted to come to their own conclusion and make their own updates. She fully agrees that there is a need for elderly housing but believes that rather than relying on an external force to come up with language, that the Zoning Commission themselves embark on it along with the Planning Commission.

Commissioner D. Truskauskas agrees with Commissioner Kovall and states that the applicant worked with Zoning Regulations that are very poor and he has a hard time adding to them.

Commissioner D. Kovall states that she feels it snuck up on the Commission, not to say it wasn't overdue, but now that it's here, she believes that there should be work with the Planning Commission on considering new regulations to serve the town's needs. She states she is not totally convinced we need something new and perhaps town-sponsored regulations can be added to and the Commission can address not only town-sponsored but private developers as well.

Commissioner D. Truskauskas **motioned** to continue discussion to the next Zoning meeting scheduled for Tuesday, May 29, 2018, seconded by Commissioner D. Kovall. Motion passed unanimously.

7. **DISCUSSION/POSSIBLE DECISION – BUMPER BROOK ESTATES, LLC - PETITION FOR A ZONE CHANGE FROM LIGHT INDUSTRIAL TO NEWLY CREATED ZONE E – MULTI FAMILY ELDERLY HOUSING ZONE, TWENTY-FOUR BUMPER ROAD, ASSESSORS MAP NOS. A8-03-0003, A8-03-0004 AND A8-03-0006.**

No discussion.

8. **COMPLAINTS/ENFORCEMENT ACTIONS.**

None.

9. ANY OTHER BUSINESS.

None.

10. CORRESPONDENCE.

None.

11. INVOICES.

None.

12. ADJOURN.

Commissioner D. Truskauskas **motioned** to adjourn the meeting at 8:20 p.m., seconded by D. Kovall.
Motion passed unanimously.

Respectfully submitted,

Polly Redmond
Land Use Coordinator

RECEIVED FOR RECORD AT HARWINTON CT
ON 05/21/18 AT 11:55 AM
ATTEST NANCY E. ELDRIDGE TOWN CLERK