

HARWINTON ZONING COMMISSION

MONDAY, MAY 13, 2019

TOWN HALL 7:00 P.M.

Present: Chairwoman Michelle Rewenko, Cynthia Kasey, Daniel Thurston, Matthew Szydlo, Deborah Kovall, Alternate Member Don Truskauskas, Land Use Coordinator Polly Redmond and Zoning Enforcement Officer Troy LaMere.

Also Present: Michael D. Rybak

Absent: Theodore Root

PLEDGE OF ALLEGIANCE

PUBLIC HEARING - CONTINUED

1. OPEN HEARING – ESTABLISH QUORUM.

Chairwoman Rewenko called the hearing to order at 7:00 p.m. All regular members present are seated. It is acknowledged that Cynthia Kasey and Daniel Thurston listened to the audio recording of the last Zoning Commission public hearing they were absent from on 4/22/19.

2. BUMPER BROOK ESTATES – APPLICATION FOR SPECIAL PERMIT AND SITE PLAN APPROVAL FOR CONSTRUCTION OF 36 UNIT ELDERLY HOUSING COMPLEX, TWENTY-FOUR BUMPER ROAD. PUBLIC HEARING OPENED 3/11/19.

Chairwoman Rewenko acknowledges new exhibits being entered into the record as follows:

A16) W.M.C. Consulting Engineers final report dated 4/30/19 with three comments offered.

1. Handicap parking has been provided but there should be a “van” accessible spot provided.
2. The dumpster pad is identified as being screened, however no detail of the proposed screening has been provided.
3. W.M.C. had previously noted that full scale architectural plans should be provided for review, however this is strictly up to the Commission as to whether the drawings provided are adequate.

A17) Email from Steve McDonnell, P.E., W.M.C. Consulting Engineers stating they have no further comment regarding ADA Compliance and the number of parking spaces.

A18) Email from Town Counsel Michael D. Rybak dated 5/8/19 giving guidance on this application regarding whether Zoning can base their decision contingent on the applicant paying outstanding W.M.C. invoices and also regarding WPCA sewer hookup fees.

A19) Letter from Atty. William Tracy dated 5/13/19 consenting to extension of the public hearing to the 6/10/19 Zoning meeting and consenting to the extension of time permitted by statute for closure of the public hearing.

A20) Copy of cut sheet of the proposed parking lot lamps submitted by Atty. William Tracy.

A21) Copy of sample residential apartment lease used by Scott Bayne, S&W Custom Home Builders, (applicant) at the Bristol elderly housing complex, Apple Grove, Lake Avenue.

A22) Revised copy of deed restrictions submitted by Atty. William Tracy on Use, Alienation and Occupancy (see exhibit A3).

It is acknowledged upon questioning by Atty. Rybak that the Inland Wetlands and Watercourses application submitted by Bumper Brook Estates, LLC is also part of the record.

Atty. William Tracy, Furey, Donovan, Tracy & Daly, P.C., Bristol, CT, is present along with Scott Bayne, S&W Custom Home Builders (applicant). Atty. Tracy informs the Commission that the Harwinton WPCA met on May 7, 2019 and did vote on the number of sewer connections (nine) and also voted to send the application to the Torrington WPCA for approval of the physical connection. Torrington WPCA meets on May 20, 2019 and he will know more about the sewer connections after that meeting. He has requested that this public hearing be continued to the June 10, 2019 Zoning meeting and not the next meeting on May 28, 2019 because there won't be an answer by that date.

Atty. Michael Rybak reminds the Commission that June 10, 2019 is the last day to extend the public hearing and after that date, the Commission has 65 days to make a decision. He advises the Commission to make certain they have all the information required or requested by the June 10, 2019 date. He states that he attended the May 7, 2019 Harwinton WPCA meeting and that Harwinton WPCA is waiting for the Torrington WPCA decision though it was not clear whether the Harwinton WPCA would approve the application or not. Atty. Tracy states that the Harwinton WPCA set the connection charges, the number that would apply, but held off on a decision to wait on Torrington WPCA. Atty. Rybak notes that the connection charge is based on design, with one connection out of each building connecting to a common sewer pipe. If each unit is built like this, it would be determined that the Use Group would be an R2 (commercial use) and not townhouses. The revised plans show one hookup per building so the total is 9 hookups, not 36 as originally shown on a submission of plans. He reminds the Commission that they cannot act on this application until the sewer connection permit is received. Commissioner M. Szydlo questions whether the R2 or R3 Use Group affects Zoning with Atty. Rybak replying, no, it is not a Zoning decision.

Commissioner D. Truskauskas refers to the Harwinton Inland Wetlands and Watercourses Commission meeting minutes of 5/6/19 where motion was made that the Inland Wetlands approval for this application is not valid due to the applicant not complying with the condition of approval that all W.M.C. Consulting Engineers' invoices be paid by him. He questions Atty. Rybak as to whether the motion made invalidates the IWWC approval. Atty. Rybak states that he has never seen a revocation after an appeal period expires. If it comes down to fees, it should go before the Board of Selectmen and he states that he hasn't been asked to comment on this specific matter. Commissioner D. Truskauskas asks that the Inland Wetlands and Watercourses 5/6/19 meeting minutes be added to the record and submits them as **Exhibit A23**. Atty. Rybak states that if an Inland Wetlands approval was received and the certified decision letter went out, then the decision has been made. If the Inland Wetlands Commission wishes to revoke the approval they would have to provide for a legal notice and hold a public hearing on it. He advises the Zoning Commissioners not to assume that the statement in the IWWC minutes stands, that there are procedures for revoking Inland Wetlands permits. Commissioner D. Truskauskas then asks Atty. Rybak, what his advice is for this Commission. Atty. Rybak replies that the Zoning Commission has the report of the Inland Wetlands Commission and once that report is received, the Zoning Commission makes their decision under their Zoning rules.

Commissioner D. Truskauskas questions whether the sight line easement has been added to the site plans with Atty. Tracy stating that there are two triangles located on each side of the driveway that will have sight line easements and be shown on revised plans. Atty. Tracy also states that van space in the parking lot that W.M.C. commented on is just a striping matter and will be provided.

Commissioner D. Truskauskas questions Atty. Rybak on the procedure for the sight line easements, if it is something Commissioners need to see before a decision is made. Atty. Rybak states that the Sight Line Easement document will be reviewed and that the Zoning Commission should not make a decision on the application until it is reviewed.

Commissioner D. Truskauskas questions the bond amount being higher than what was presented by the applicant with Atty. Tracy stating that the amount submitted by W.M.C. Consulting Engineers is acceptable. In referring to W.M.C.'s recent comment (#2 above) regarding the screening of the dumpster, Atty. Tracy states that the detail of such is shown on the Landscaping Plan provided. In referring to W.M.C.'s comment (#3 above), Chairwoman Rewenko questions whether this Commission would like to see full scale architectural plans with Commissioner M. Szydlo stating he would like to see them. Applicant Scott Bayne reminds the Commission that architectural plans are in the record (Exhibit A1) on a smaller scale. Commissioner D. Truskauskas states his belief that this Commission does not need to review full scale plans, that the Building Inspector will receive and review them.

LUC Redmond requests that four sets of revised plans be received with Atty. Tracy agreeing to and that one set will be sent electronically.

With no comments from the public and no further comments by the Commissioners, Atty. Rybak reminds the Commission that in making a decision Commissioners should be certain the Zoning Regulations are being met and that reasons are given for any approval or denial.

3. CONTINUE OR CLOSE HEARING.

M. Szydlo **motioned** to continue the public hearing to Monday, June 10, 2019 at 7:00 p.m., seconded by D. Thurston. Motion passed unanimously.

REGULAR MEETING

1. OPEN MEETING – ESTABLISH QUORUM.

Chairwoman Rewenko called the regular meeting to order at 7:20 p.m. All regular members present are seated.

C. Kasey **motioned** to take up Item 5 at this time in order to have Atty. Rybak available for any questions Commissioners may have, seconded by M. Szydlo. Motion passed unanimously.

CITY OF TORRINGTON – APPLICATION FOR ANIMAL CONTROL FACILITY UPGRADE, 252 BOGUE ROAD.

Richard Lynn, Director, Northwest Hills Council of Governments, is present to represent. Plans by Milone & MacBroom dated March 4, 2019, titled Torrington Dog Pound Litchfield Hills Animal Shelter is provided along with plans that include a Title Sheet, Existing Conditions (Sheet EX), dated 12/22/17, Site Plan – Layout and Landscaping (Sheet LA), 12/22/17, Site Plan – Grading and Utilities (Sheet GU), dated 12/22/17, Sediment and Erosion Control Plan & Detail (Sheets SE and SED), dated 12/22/17, and Site Details (Sheets SD1 & 2), dated 12/22/17 are reviewed. Mr. Lynn reminds the Commission that at the last Zoning meeting the applicant was instructed to appear before Harwinton WPCA for a decision on the requirement of obtaining a Sewage Discharge Permit. The Zoning Commission was informed at that time that the new animal shelter facility would tie in to the water and sewer from the WPC Facility located to the north of the animal shelter facility. Ray Drew, Public Works Director/WPCA Administrator was contacted by Mr. Lynn to ask for verification with Mr. Drew replying in an email to Mr. Lynn stating

- 1) The new animal shelter is on the same property as the treatment plant and will be tied into the treatment plant system.
- 2) The discharge from the animal shelter will not be considered part of the flow from Harwinton as it does not discharge through any part of the Harwinton Sewer System and thus would not have any impact on Harwinton's allocation.
- 3) Will the shelter require a sewer discharge permit from Harwinton WPCA?

Chairwoman Rewenko questions Mr. Drew's statement in #3 and asks Atty. Rybak if there should be a formal letter to Zoning stating that there is no requirement for a Harwinton WPCA permit. Mr. Lynn states that he attended the Harwinton WPCA meeting on May 7, 2019 and it was determined then that no permit was required. Atty. Rybak states that he also was at the WPCA May 7, 2019 meeting and confirms that the Commission determined that the sewer hookup will not be a part of the Harwinton Sewer System. It is noted that IWWC approval has been received for this application. The current animal shelter facility is on septic and well and according to Mr. Lynn, that building will be repurposed once the new facility is operational. D. Kovall **motioned** to approve the application, seconded by D. Thurston and passed unanimously.

*LUC Redmond has electronically received in office on 5/14/19 from Jason Morehouse, PLA, Project Landscape Architect, Milone & MacBroom, Cheshire, CT the following: Photometric Plan, Site Lighting Cut Sheet and Electrical Site Plan.

2. APPROVE MINUTES OF PREVIOUS MEETING: 4/22/19

This item will be taken up at the end of the meeting.

3. PUBLIC COMMENT.

None.

4. DISCUSSION/POSSIBLE DECISION - BUMPER BROOK ESTATES – APPLICATION FOR SPECIAL PERMIT AND SITE PLAN APPROVAL FOR CONSTRUCTION OF 36 UNIT ELDERLY HOUSING COMPLEX, TWENTY-FOUR BUMPER ROAD.

No discussion.

5. CITY OF TORRINGTON – APPLICATION FOR ANIMAL CONTROL FACILITY UPGRADE, 252 BOGUE ROAD.

See above.

6. SUPREME INDUSTRIES – APPLICATION FOR CONSTRUCTION OF EQUIPMENT WASH BAY, 216 BOGUE ROAD.

Robert Green, Robert Green Associates, Bristol, CT, is present along with Jared Braddock, Supreme Industries. Plans by Robert Green Associates titled Existing Conditions Site Plan Modification for Proposed Wash Facility, Land Owned by B&R Corporation, 216 Bogue Road, dated 11/26/18, Layout Plan, dated 11/26/18, Grading & Utilities Plan, 11/26/18, Erosion & Sedimentation Control Plan, 11/26/18 and Miscellaneous Note and Details, 11/26/18 are reviewed. Plans show the 50' x 50' wash bay to be 128.3 feet to the west side property line, 233.5 feet to the east side property line, 1099 feet to the rear property line and 289.5 feet to the front property line. A letter from TAHD dated 4/22/19 has been received that states the buildings on the property are presently on a septic system with a designated reserve area and therefore, their office finds the proposal acceptable. IWWC Agent Approval has been received as the plans state there are no wetlands within 100 feet of the proposed construction. M. Szydlo questions if any special chemicals will be used within the wash bay with Mr. Green stating that degreasers will mostly

be used and will be collected in a closed system and transported off site. A General Permit Registration from DEEP will be required per Mr. Green and that will be obtained after the application receives a Zoning approval. C. Kasey **motioned** to approve the application, seconded by D. Kovall. Motion passed unanimously.

7. COMPLAINTS/ENFORCEMENT ACTIONS.

ZEO Troy LaMere updates the Commission on the complaint at 508 Hill Road. He explains that he was in contact with the property owner, Ralph Johnson, who was working with him and who was agreeing to clean up the property of the trucks and equipment being kept there. This past Saturday ZEO LaMere visited the property again and the person living there, Ron Conroy, was home but wouldn't speak to him. There is oil and grease in the driveway from the trucks and equipment and the premises looks like a junk yard. Motors are being washed onsite and not all the vehicles there are registered. He reminds the Commission that this is an old complaint first submitted by Nancy Schnyer and handled by the previous enforcement officer, Tom Mitchell, and that he believes these activities have been taking place for a long time. He turns to Atty. Rybak at this time stating that he is seeking legal advice and guidance on what to do. Atty. Rybak questions if there is a Guide for the ZEO to follow, which there is. Atty. Rybak states that the steps outlined in the Guide must be followed starting with the report of the Zoning Enforcement Officer that includes date/time stamped photos of the property and the vehicles kept there. A certified letter giving Notice of Violation should be mailed out and if Mr. Johnson doesn't collect it, ZEO LaMere may well have to get a Marshal to serve notice for him. There is a 30 day appeal period from the date of mailing of Notice of Violation but the process all starts with the ZEO Report. ZEO LaMere states that if this is how the Commission directs him to proceed he will do so. He didn't take pictures previously because Mr. Johnson seemed willing to work with him on cleaning up the property.

ZEO T. LaMere informs the Commission that he inspected a new shed at 29 County Line Road and all is in order.

He reports that he received a complaint from a resident at 235 Mansfield Road against a neighbor at 94 Campville Hill Road. The complaint is regarding water crossing the driveway due to an unpermitted shed being placed down that included earth disturbance and redirection of water runoff. ZEO LaMere notes that the illegal shed does not meet required setbacks. Chairwoman Rewenko asks that ZEO LaMere submit a report to the Commission accompanied by photos of the water and shed to start the enforcement process.

Regarding complaint at 797 Hill Road, Peter Hock, by Deborah Kovall, she reported in an email to the Land Use office that one day she witnessed earth material being taken off the property by trucks taking at least six trips towards Thomaston. She reports that no landscaping is taking place on the Hock property as was stated by Mr. Hock at the 4/8/19 Zoning meeting. ZEO T. LaMere asks her to report to him if the activity happens again.

At this time Item 2 – Approval of minutes of previous meeting is taken up.

APPROVE MINUTES OF PREVIOUS MEETING: 4/22/19

D. Kovall **motioned** to approve the minutes of the previous meeting with amendment to page 5, Item 9, paragraph 2, line 1 to correct the address from 588 Hill Road to **508 Hill Road**. M. Szydlo seconded the motion and it passed unanimously with C. Kasey and D. Thurston refraining from vote due to their absence at the previous meeting.

8. ANY OTHER BUSINESS.

None.

9. CORRESPONDENCE.

Correspondence from Atty. Steven Byrne dated 5/1/19 is received.

10. INVOICES.

M. Szydlo **motioned** to approve the April invoice of ZEO Troy LaMere for 7.5 hours, seconded by C. Kasey. Motion passed unanimously.

11. ADJOURN.

C. Kasey **motioned** to adjourn the meeting at 8:10 p.m., seconded by D. Kovall. Motion passed unanimously.

Respectfully submitted,

Polly Redmond
Land Use Coordinator

RECEIVED FOR RECORD AT HARWINTON CO.
ON 5-15-2019 AT 11:45 AM
BY NANCY E. ELDRIDGE TOWN CLERK