

HARWINTON ZONING COMMISSION
MONDAY, JULY 24, 2023
TOWN HALL 7:00 P.M.

Present: Chairman Daniel Thurston, Secretary Cynthia Kasey, Theodore Root, Deborah Kovall, Alternate Member Michelle Whitford and Land Use Coordinator Polly Redmond
Absent: William Ponte, Alternate Member Dave Foster and ZEO Don Truskauskas

PLEDGE OF ALLEGIANCE

PUBLIC HEARING

1. OPEN HEARING – ESTABLISH QUORUM.

Chairman D. Thurston called the hearing to order at 7:00 p.m. All regular members present are seated with Alternate Member Michelle Whitford seated for William Ponte.

2. ERIC CARLSON – APPLICATION FOR SPECIAL PERMIT FOR BASEMENT ACCESSORY APARTMENT, 80 BROOKFIELD ROAD.

Mr. Carlson is present and submits proof of certified mailings to neighbors within 200 feet of his property giving notice of this hearing. Legal noticing of this hearing was published in the Republican American newspaper on July 14, 2023 and July 21, 2023. A sketch is provided showing the overall layout of the proposed 634 square foot open floor apartment that will include a living room area, kitchen, bedroom and full bath in the basement of the home with entrances through the attached garage and an existing walkout from the basement. Two parking spaces will be provided for the accessory apartment. Torrington Area Health approval has been received.

Chairman Thurston opens the floor for public comment to which there is none.

3. CONTINUE OR CLOSE HEARING.

With no further comments, T. Root **motioned** to close the public hearing at 7:05 p.m., seconded by C. Kasey. Motion passed unanimously.

REGULAR MEETING

1. OPEN HEARING ESTABLISH QUORUM.

Chairman D. Thurston called the regular meeting to order at 7:05 p.m. All regular members present are seated with Alternate Member M. Whitford seated for W. Ponte.

2. APPROVE MINUTES OF PREVIOUS MEETING: 6/26/2023

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

3. PUBLIC COMMENT.

None.

Chairman Thurston at this time informs those present of the guidelines the Commission follows for holding a meeting, including notice that confrontation among attendees will not be tolerated.

4. ERIC CARLSON – DISCUSSION/POSSIBLE DECISION - SPECIAL PERMIT APPLICATION FOR BASEMENT ACCESSORY APARTMENT, 80 BROOKFIELD ROAD.

C. Kasey **motioned** to approve the application for Special Permit to create a 640 square accessory apartment in the basement of the home as it will not hinder or discourage the nature of the neighborhood. T. Root seconded the motion and it passed unanimously.

5. LEONARD LOPARDO – DISCUSSION OF SUNSET RIDGE OFF MOUNTAIN VIEW DRIVE, HANNAH WAY, LAUREN LANE.

Mr. Lopardo is present along with several residents of the development, Sunset Ridge. He submits photos of various sections of road within the development stating that all the paving is done, minus some curbing on the lower road where construction is still going on. Plantings are just about done and lighting will be installed in another week, per Eversource. Zoning Commissioners, ZEO Truskauskas, Mr. Lopardo and Lillian Busse, 15 Hannah Way, Acting President of the Unofficial Sunset Ridge Association, have all received a copy of an email from Robert Barneschi, W.M.C. Consulting Engineers (town engineers), dated 7/24/2023 who conducted a site walk of the property earlier today. In his email he has the following questions/comments:

- Why is the trail network around the perimeter of the site not constructed? It appears the trail was to be used as the berm, in conjunction with a defined swale to direct runoff to CB16 at Ross Drive and prevent runoff from going offsite to Fairlawn Drive.
- There is a clear erosion issue where they want to eliminate the catch basin and creating a paved leak off will only shift the erosion problem without further protection.
- During this site walk he observed the trail, the defined swale, nor the paved leak off and CB17 between Units 1 & 30. He also noticed the slope north of Units 26 & 27 that consisted of large boulders and questions whether this was supposed to be manicured lawn down to the swale.
- He asks, are the infiltrator units installed at particular roof leader locations as indicated on the plans?

And finally, though Mr. Barneschi thought this to be out of W.M.C's scope, he states that the detention basin certainly needs maintenance and questions whether there is an operations and maintenance program the Association is going to implement.

In response to Mr. Barneschi's comments, Mr. Lopardo states that he will have his engineer, Todd Parsons, work with W.M.C. for a conclusion.

T. Root refers to W.M.C.'s comment regarding the walking trail asking, was the walking trail to be used as a berm with Mr. Lopardo answering that it was but there is a berm created that will catch excess water adding that there's been a lot of rain this month with no negative effects from it on the property. He notes that all buildings have infiltrators with trap rock in and on them and that is according to the original plans.

T. Root refers to W.M.C.'s comment regarding the detention pond and the need for maintenance. Mr. Lopardo states that he is unsure of what or where W.M.C. is referring to, is it around the pond? But he does state that there is a plan that cutting takes place in October and he will have his engineer send information on this to W.M.C.

William Foster, 6 Hannah Way, addresses the Commission stating that after the past rains he had walked outside his home, in water up to his knees, to a two-foot drain that has perforated holes in the top that was overflowing. He tried to release the cover to allow the water to drain out and was able to pop the top off and relieve the pressure. He notes that this isn't a catch basin and it is not adequate for heavy rains. In response, Mr. Lopardo states that there has been an extraordinary amount of rain in July and the woodlands off site pushes water to this area of the drain. He states that it was left to his engineers to design this but that it can be reviewed again by them although he can't guarantee anything with the woodlands shedding the water. Mr. Foster states, speaking from experience in the field, that if the perforated lid was removed and a catch basin block and steel grate was put in, the water would flow with no problem. Mr. Lopardo agrees that this can be a possible solution but explains that the zig zagged cover is to prevent debris from going down into the drain and if a typical catch basin can be used, he will change it out.

Dennis Busse, 15 Hannah Way, addresses the Commission expressing concern of Mr. Lopardo's request to possibly not putting in the catch basin at 19 Hannah Way (Unit 27) and refers to pictures his wife, Lillian Busse, sent to the Land Use office. (These photos were forwarded on to the Zoning Commission, ZEO Truskauskas and W.M.C. and remain on file.) Photos include water runoff at Unit 30 from Units 26 & 27, water runoff from Unit 28 in front of Unit 29, lack of grading and seeding in areas, swale erosion and water runoff where Mr. Lopardo wants to eliminate a catch basin between Unit 26 and Unit 27. Mr. Lopardo states that haybales were put in place but this area is a leaching off area that will eventually be paved. Mr. Busse states that if a catch basin is not installed between Units 26 and 27, the problem will just get worse. Mr. Lopardo answers that he will leave this up to the engineers who calculates water flow.

Lillian Busse, 15 Hannah Way, states that one of the pictures she submitted is of Fairlawn Drive in Torrington where a catch basin washed out. She is not sure of the cause but she doesn't want the City of Torrington to come to the Association in the future and say it is their responsibility to fix.

Herman LaChance, future resident at 19 Hannah Way (Unit 27), addresses the Commission asking that they reconsider holding back on allowing the ZEO to issue a Certificate of Completion on this Unit so that he and his wife can move in. They are presently living in a camper having sold their house. Mr. Lopardo also asks the Commission for consideration to allow the LaChance's to move in noting that the town holds a bond on this project and he is "not going anywhere".

- An email from Terry Foley, 13 Hannah Way, has been received in the Land Use office on June 26, 2023 of a video she took showing a constant flow of silt towards their house during heavy rains since the first week of July. She states this is because gutters are not on the house at 17 Hannah Way. She has concerns over the steep bank in the common area on the Fairlawn Drive, Torrington, side also and provides of photo of that.
- An email from Anastassia (Nadia) Karouta, 20 Hannah Way, was received in the Land Use office on July 24, 2023 voicing concerns and problems she has encountered due to storms creating a river in her backyard causing land erosion and the flow of water to go into her air conditioner condenser outside her home. She states that the cause of this is because a section of the roof over her fireplace does not have a gutter and should have had a diverter to divert the rain into the gutters. She also states that improper grading is also the cause for water flowing right by her foundation and lack of gravel under decking on the upper part of Hannah Way doesn't help slow down the flow of water coming from other yards.

Both emails remain on file in the Land Use office.

This matter will remain on the agenda for the next Zoning meeting scheduled for August 14, 2023.

6. COMPLAINTS/ENFORCEMENT ACTIONS.

PETER HOCK – HIS REQUEST TO APPEAR BEFORE THE COMMISSION TO DISCUSS A COMPLAINT AGAINST HIM REGARDING KEEPING OF ANIMALS, 797 HILL ROAD.

William Kovall, 789 Hill Road, presents to the Commission a copy of an A2 Survey from 1990 prepared by Robert Green Associates for Peter Hock for construction of a barn for livestock and machinery. The barn has since burned down and replaced by a "temporary" hoop house on the same footprint. Mr. Kovall states that the business operation taking place out of 797 Hill Road, which is part of his written complaint, also includes the non-conforming setbacks for keeping of animals when they are kept under a business operation. To be in compliance with the Zoning Regulations, the structure housing animals on the property must be 150 feet from any side yard lot line. Although ZEO Truskauskas reported that he was at the Hock property and measured the distance from the hoop house to the side property line to be 155-160 feet, the 1990 A2 Survey shows the barn, now the hoop house, to be 116 feet to the side property line abutting the Kovall property.

A measurement from the barn shown on the 1990 A2 Survey to the rear property line measures 55 feet to scale though that number is crossed out in pen and replaced with “75 feet” with Robert Green’s signature verifying the change. The rear yard setback for structures, in past and current Zoning Regulations, is 75 feet and Mr. Kovall provides a Google Map where he did measure the setback from the hoop house to the approximate rear yard property line to be 74.25 feet. Mr. Kovall notes that the distance shown on the A2 Survey from the barn to the south side yard property line to be 167 feet proving that the hoop house cannot, or ever, meet the 150-foot side yard required setback on either side. Mr. Kovall provides the Commission with other copies of Google Maps he downloaded with approximate measurements showing property lines, measurements from the Kovall house to Hock’s hoop house (193.53 feet) housing the animals, including pigs, and from the Kovall house to the manure pile Mr. Hock keeps on the shared property line with the Kovall’s at approximately 237.63 feet.

CT Public Health Code (Section 19-13-B23(a)) requires setbacks for housing of pigs shall be measured from adjacent dwellings, not from property lines, and Code states that a pigsty (enclosure for raising pigs) must be 300 feet from any adjacent dwelling. Mr. Kovall states that the pigsty is within 200 feet of his house and the manure pile kept on the Hock/Kovall property line measures approximately 237 feet from his house and he is asking that a Cease & Desist Order be issued on the business being operated out of 797 Hill Road, a Cease & Desist Order be issued for the noncompliance of keeping of animals, and a Cease and Desist Order be issued for the pig manure pile. Mr. Kovall points out that Mr. Hock stated at the previous Zoning meeting that he has a farm stand but also said that 600-700 dozen eggs a week are brought on to his property for resale as well as frozen chickens. This is not in compliance with Zoning Regulations that allows for farm stands where produce offered for sale is produced on the farm on which the stand is located.

Peter Hock is present and states that his father farmed this land since 1948 and always had pigs. The foundation location for the barn was approved in 1990 and the business operating out of 797 Hill Road is his business with two people running it. He states that according to ZEO Don Truskauskas, the building has been in this location long enough so that it is now legal nonconforming.

Chairman Thurston states that the hoop house is considered a temporary building that was put up to temporarily replace the barn that burned down. Mr. Hock answers that another barn on the same foundation will be put up eventually. He adds that Torrington Area Health has been out to the property and finds no problem with the location of the manure pile. Mr. Kovall states that he and his wife built their home in 1978 and the Hock barn was built in 1991 and at that time there was only a garden and a pasture there and that the property has now changed from farm to business.

C. Kasey questions Mr. Hock on why he buys 600-700 dozen eggs a week with Mr. Hock replying that, that is part of agriculture. C. Kasey states that in order to be an agricultural operation, one must produce product on their own land and if not, as with the case of purchasing eggs for resale, it is a commercial operation. Mr. Hock replies saying he will stop selling eggs then, even though the Agricultural Department said it is okay. T. Root states that the Commission is not saying that Mr. Hock is not operating a farm but that product must be grown or raised on the property, it can’t be brought in. Mr. Hock questions whether he can bring in a sheep, keep it for a week, and then slaughter it, with the Commission stating no, that is not “raising” the animal. T. Root states that animals must be raised from birth to death on the property in order to be in compliance with Zoning Regulation 4.1b and bringing in items for resale is retail and not in compliance with Zoning Regulation 4.1c.

Discussion will be taken up again at the next Zoning meeting scheduled for August 14, 2023 at 7:00 p.m.

7. ANY OTHER BUSINESS.

MAX LEVINE – INFORMAL DISCUSSION – COTTAGE FOOD PRODUCTION OPERATION OUT OF HOME, 119 HILL ROAD.

M. Levine is not present.

ERIN SHEAK – INFORMAL DISCUSSION – USE OF HOME FOR PERSONAL BUSINESS, 418 LOCUST ROAD.

E. Sheak is present and informs Commissioners of her plan to bake cakes in her home upon request from friends, family and other customers in her spare time as she works full time outside of the home. She will have no employees, no customers coming in and will not be on a commercial scale. D. Kovall believes this qualifies as a Cottage Food Operation with E. Sheak stating that she has started the process of getting all permits through the State of CT Department of Consumer Protection, which is a lengthy process. She also has become certified for Safe Serve and water samples from the home have come back good.

T. Root states that Zoning Regulations don't really address this type of activity (Cottage Food Operations) but feels that Zoning Regulation 6.19 allows for use of home for personal business with Commissioners agreeing.

8. INFORMAL DISCUSSION – PROPOSED ZONING REGULATION AMENDMENTS

No discussion. The item will be placed on the next Zoning meeting agenda.

9. CORRESPONDENCE.

None.

10. INVOICES.

None.

11. ADJOURN.

T. Root **motioned** to adjourn the meeting at 8:25 p.m., seconded by D. Kovall. Motion passed unanimously.

Respectfully submitted,

Polly Redmond
Land Use Coordinator

