

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

Absent: Chairman Daniel Thurston and William Ponte

PLEDGE OF ALLEGIANCE

1. OPEN HEARING ESTABLISH QUORUM.

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

2. APPROVE MINUTES OF PREVIOUS MEETING: 7/24/2023

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

3. PUBLIC COMMENT. None.

4. JARED BRADDOCK, SUPREME INDUSTRIES, BUILDING DIVISION – APPLICATION FOR ADDITION TO COMMERCIAL BUILDING, 216 BOGUE ROAD, B&R CORPORATION.

The applicant is not ready to present until the next Zoning meeting on August 28, 2023.

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

Mr. Lopardo, Developer, Sunset Ridge, is present as well as approximately 25 residents of Sunset Ridge. Mr. Lopardo distributes a dozen pictures of all the plantings within Sunset Ridge that he states are done except for the last remaining houses under construction. He notes that the road is complete except for curbing which will be completed after all construction is done. A new grate has been installed at 6 Hannah Way and is working fine. Gutters are all done and a trench between 13 Hannah Way and 15 Hannah Way will be done tomorrow. Mr. Lopardo states that he is still waiting on Eversource for the remaining lights.

Town Engineers, W.M.C. Consulting Engineers, had been asked to report on their July 24, 2023 site visit in connection with the Mr. Lopardo's proposal to eliminate the catch basin at 19 Hannah Way. Acting Chair C. Kasey reads the August 11, 2023 report into the record that includes photos. In summary, the report reads as follows:

Based on the above-mentioned documents and our field walk observations, we offer the following comments and concerns for your consideration:

- 1) The area where CB17 was installed should be cleared of the overgrown vegetation and graded in accordance with the approved design plans. If the paved leak-off in that area was constructed it was not evident and appears to be silted over and grown in. CB17 was not observed during the field inspection.*
- 2) The overgrown berm between Units 30 and 27 should be cut down in lieu of the defined swale depicted on the approved design plans. This swale should convey flow from the lawn areas to the east and be directed to CB17.*
- 3) While it was mutually agreed upon to eliminate the northern trail section, it appears the construction limits along this area did not adequately account for the construction of the defined swale that was to intercept overland flow to Fairlawn Drive and direct it to the detention basin. This swale should be constructed, properly sized and adequately protected from erosive velocities.*

- 4) *Even with the inclusion of CB18, the intended swale along the northern boundary should be constructed in accordance with the approved design plans.*

In summary, our office take's no exception to the elimination of CB18 provided that the defined swale is constructed and sized appropriately to convey runoff to CB16 adjacent to Ross Drive; north of Unit 6. Additionally, soil/slope protection at the exit point of the paved leak-offs should be incorporated into the design to dissipate the runoff velocities and mitigate any onsite erosion sources.

Lillian Busse, 15 Hannah Way, states for the record that there are 15 plants that still need to be planted but have not because the area hasn't been graded or topsoiled. The swale area is not graded or seeded either. Mr. Lopardo replies that the swale area has been cut down and is waiting for grading to be done before plantings go in. ZEO D. Truskauskas informs Mr. Lopardo that before the plantings and the swale is defined, there are trees that will need to come down to get the swale in and water to flow.

An email from Lillian Busse to the Land Use office dated 8/13/2023 is acknowledged. The four-page email outlines things that have been completed and things that are outstanding. All Commissioners and ZEO Truskauskas have received a copy. T. Root questions how much of what is mentioned in the email is under the jurisdiction of the Zoning Commission. ZEO Truskauskas states that he will review and advise Commissioners but notes, for example, that cleaning out of the detention basin is not a Zoning matter.

Mr. Lopardo asks the Commission if they would agree to release the freeze on issuing a Certificate of Compliance for one of the three remaining units, being 19 Hannah Drive (Unit 27). He states that he has two more homes to complete and sell, which he believes are a month and a half away from completion, and the town is holding an \$83,000 bond still. ZEO Truskauskas states that the Commission should ask themselves if the bond amount is enough to cover the cost to complete the project if required.

Teresa Foley, 13 Hannah Way, states that six inches of silt still comes down the road past her house. If the catch basin is eliminated, and a swale is to be made, will the town inspect the swale and will Mr. Lopardo inspect to be certain silt doesn't come down the road? Mr. Lopardo states that silt will be removed and a depression will be made in the swale to send water down the road. T. Foley states that there is silt under the deck of 19 Hannah Way (Unit 27) and questions whether Mr. Lopardo will stop that from happening. Mr. Lopardo replies that he will look at the matter tomorrow. He adds that he is willing to put in a catch basin (#18) at 19 Hannah Way if the Commission decides that with ZEO D. Truskauskas stating that either way, a swale must go in. Lillian Busse questions if the swale will cross over the main waterline with ZEO Truskauskas stating, yes, and also across the Fairlawn Drive (Torrington) side of the propane line. He adds that the mound of dirt in this area needs to be cut down by Mr. Lopardo in order for the swale to work.

Bill Foster, 6 Hannah Way, questions the diversion of water with Mr. Lopardo answering 50% of it goes to Hannah Way. Mr. Foster also questions curbing and how that would deflect water as well as noting that when gutters are put on houses, it puts a lot of water into the road.

T. Root states that the Commission's decisions are based on the drawings submitted by Mr. Lopardo and it's the only thing the Commission can enforce.

Dennis Busse, 15 Hannah Way, distributes pictures showing the area where Catch Basin 18 was to be installed and notes that Units 26 & 27's foundation drains and downspouts are connected to this proposed Catch Basin 18 as well as road runoff. Other pictures show the road where a paved runoff should be because the road pitches to the left. Another picture shows craters along the road and one of clear run off from Fairlawn Drive (Torrington) that ends up brown by the time it gets to the Harwinton town line shared with Sunset Ridge. It is Mr. Busse's belief that the catch basin should be put in as well as the swale.

ZEO D. Truskauskas informs Commissioners that they can approve the modification of eliminating Catch Basin 18 or require Mr. Lopardo to do both a catch basin and a swale or do just one. T. Root believes that Mr. Lopardo should discuss W.M.C.'s comments with his engineer with ZEO Truskauskas stating Mr. Lopardo's engineer should give his opinion, on a stamped letter, on whether the swale is adequate to eliminate the catch basin and after that is received is when the Commission could consider the decision on elimination of Catch Basin 18.

In referring back to the issuance of a Certificate of Compliance for 19 Hannah Way (Unit 27), new alternate member Victoria Elliott questions that if the town holds a bond that protects the town, why can't a Certificate of Compliance be given so the owners can move in. T. Root states that he has no problem with allowing a Certificate of Compliance to be issued knowing that the next house will be done in a month and a half and knowing what the bond amount is. D. Foster agrees that 19 Hannah Way should be given compliance. D. Kovall states that given the fact that progress has been made, she is in favor of allowing the enforcement officer to issue a Certificate of Compliance. M. Whitford also agrees but states that the Commission must be mindful of things that still need to be done.

D. Foster **motioned** that ZEO D. Truskauskas can issue a Certificate of Compliance for 19 Hannah Way, seconded by T. Root. Motion passed unanimously.

6. COMPLAINTS/ENFORCEMENT ACTIONS.

PETER HOCK – DISCUSS COMPLAINT AGAINST HIM REGARDING KEEPING OF ANIMALS, 797 HILL ROAD.

Mr. Hock is present with his attorney, William Conti. Commissioner Deborah Kovall recuses herself at this time as her husband is the complainant. William Kovall is present in the audience. Atty. Conti states that Mr. Hock's farm predates Zoning of 1955 and has been in existence since 1948 and slaughtering of animals have always taken place on the property. He refers to Zoning Regulation 4.1b pertaining to agricultural uses and slaughtering of livestock as well as Zoning Regulation 13.4.1 non-conforming use of land. Atty. Conti states that Mr. Hock brings animals in to slaughter.

A letter from Agricultural Committee Chairperson Michael Orefice dated August 13, 2023 has been received after the Committee held a special meeting on August 10, 2023 at the request of William Kovall, 789 Hill Road. The letter states that the meeting was held to allow Mr. Kovall to address the committee on possible agricultural violations at 797 Hill Road and to seek input from the committee. The Agricultural Committee did review Zoning minutes of March 27, 2023, May 8, May 22, June 26 and July 24, 2023 as well as the Right to Farm Ordinance 140 and Zoning Regulations Section 2.3 – Definition of Agriculture, Section 4.1.b and c – Agricultural uses and Roadside Stands and Section 6.5 – Keeping of Animals. The letter will be an addendum to these minutes. All Commissioners and Mr. Hock and Atty. Conti have received a copy of this letter.

Atty. Conti states that he would like time to review the letter from Chairperson Michael Orefice and address the issue at the next Zoning meeting to be held on August 28, 2023.

William Kovall raised his hand to speak and when called upon, Atty. Conti took offense stating that Mr. Kovall cannot speak because he is the husband of Commissioner Deborah Kovall and that the appearance of anything Mr. Kovall has to say may affect the Commission and their thoughts on the matter. Without proceeding any further, ZEO D. Truskauskas states that he will contact Kent Mancini, Cramer & Anderson, to verify that a complainant can speak in front of the Zoning Commission regardless of his spouse being a Zoning Commissioner. (Town Counsel Michael D. Rybak has recused himself from assisting the town in this matter as he has represented Peter Hock in the past.)

Commissioner Deborah Kovall is reseated.

7. ANY OTHER BUSINESS.

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

No one is present to represent.

8. INFORMAL DISCUSSION – CHANGES OF USE IN RETAIL SERVICE AND LIGHT INDUSTRIAL ZONES.

Discussion takes place as to whether a public hearing is required to be held each time a new tenant comes into a retail service/light industrial existing establishment. The Zoning Regulations lists types of businesses permitted in these zones but states “by special permit” which requires a public hearing. Some Commissioners believe that if the retail/commercial building is established it is obvious that different types of businesses may come and go as owner or renters but that a public hearing is not required for each one. If a new building in those zones were to be proposed it is then that a public hearing would be required. Commissioners understand that Changes of Use do require Commission notification to be certain that parking requirements, etc. are being met as well as Torrington Area Health approvals are obtained. Commissioners ask LUC Redmond to get clarification from Town Atty. Michael D. Rybak.

9. INFORMAL DISCUSSION – PROPOSED ZONING REGULATION AMENDMENTS.

No discussion. Item will be placed on the next Zoning meeting agenda scheduled for August 28, 2023.

10. CORRESPONDENCE.

None.

11. INVOICES.

None.

12. ADJOURN.

T. Root **motioned** to adjourn the meeting at 8:30 p.m., seconded by D. Kovall. Motion passed unanimously.

Respectfully submitted,

Polly Redmond
Land Use Coordinator

August 13, 2023

To: Harwinton Zoning Commission
From: Harwinton Agricultural Committee
Re: Farming Activity at 797 Hill Rd

Dear Harwinton Zoning Board,

The Harwinton Agricultural Committee (HAC) held a special meeting on Thursday, August 10, 2023, at the request of Mr. William Koval, 789 Hill Road. The purpose of the meeting was to allow Mr. Koval to address the committee on possible agricultural violations at 797 Hill Road and to seek input from the committee.

Prior to the meeting the committee had the opportunity to review Zoning Minutes from March 27, May 8, May 22, June 26, and July 24 as well as the town's Right to Farm Ordinance 140, and Zoning Regulations Section 2.3 - Definition of Agriculture, Section 4.1 b and c - Agricultural uses and Roadside Stands, and 6.5 - Keeping of Animals.

After much discussion, the committee felt that the following recommendations should be forwarded to the zoning board.

1. Delicias da Fazenda, a registered business with the town of Harwinton and registered with the state of CT (January 3, 2023), is owned by Veronica and Ricardo Jorge Dutra Oliveira, and currently operates at 797 Hill Road, Harwinton. The Oliveira's do not own the property. According to the assessor's card, 797 Hill Road is owned by Hock C & P, & Leifert J. & Pecco P and consists of 2 acres residential land, 17 acres excess land and 5.85 acres of excess land. However, the committee was shown an A-2 survey of the property which included the residency and the hoop house at 797 Hill Road and consisted of approximately 10 acres. Mr. P. Hock occupies the residency. The committee recommends identifying the exact parcel or parcels that are being utilized by Delicias da Fazenda.
2. The Oliveira's home address is listed as 72 Thomaston Rd. Harwinton, CT. However, there is no Thomaston Road in Harwinton. The committee recommends identifying the Oliveira's residency address.
3. The address that Delicias da Fazenda utilizes on their Facebook page and on their vacuum packaged cuts of meat lists the appropriate street address as 797 Hill Road but lists Thomaston as the town. The committee recommends that this be corrected wherever the discrepancy exists. Especially on any consumable products sold.
4. Zoning Regulations require a 50' setback for Non-Business Keeping of Animals 6.5 par. 1 and a 150' distance for Business use of Keeping of Animals 6.5 par. 2. Since the business Delicias da Fazenda began operating at 797 Hill Road this calendar year and is not affiliated with any past agricultural practices conducted on the property, the Agricultural Committee believes the 150' setback should be considered instead of the 50' setback.
5. Although the setback distance can be measured with a tape measure, rangefinder, or by using Google Earth, the most accurate distance is what would be shown on an A-2 Survey that gets filed with the town and is created by a licensed engineer & surveyor. The current survey shows two measurements, one that is less than 150' from the property line to the hoop house and the second measurement is drawn in pencil. The committee recommends having a new A-2 survey map filed that shows the exact location of the hoop house. In relation to the side and rear yard setbacks.
6. There seems to be two types of activities occurring on the property, a farming operation that may or may not be practicing generally accepted agricultural practices, and a wholesale food

distribution business which imports between 7,200 and 8,400 eggs per week as well as frozen chickens, bags of fresh corn, and possibly other consumable products. It is unclear whether these products are being sold wholesale at the farm or are being delivered to stores/markets for resale. It is also unclear where these products are coming from, in-state or out of state, and if appropriate state and federal guidelines are being met.

Regardless of where or how these imported products are being sold, Delicias da Fazenda advertises as a wholesaler. The committee feels that the scale of the consumable imports being brought onto the property compared to what is raised on the property would make the farm an incident to the wholesale business and not the wholesale business as an incident to the farm. A "farm" should never be a front for a wholesale business, even when the business primarily sells agricultural products.

It is also unclear where the livestock, including poultry, originate from. Any live livestock that comes onto a farm from out of state must meet Federal guidelines pertaining to vaccinations, inspections, quarantining, etc. The committee recommends looking further into this situation with the CT Department of Agriculture, and the USDA.

7. If Delicias da Fazenda is a wholesale egg distributor distributing eggs to retailers, then they must be registered with the Department of Consumer Protection. Egg distributors are required to keep on file a list of egg sources and a list of egg accounts to which eggs are sold. These lists are subject to review by the Department of Agriculture and the Department of Consumer Protection upon request. The committee recommends following up with the DOAG and DCP.
8. The HAC was shown photos of a manure pile that is building up on the property line. According to Mr. Koval, some of the pile is on his side of the property line. Mr. Koval indicated that there are currently no crops being grown on the property so therefore, there are no plans for the manure. The committee would recommend that the business owner find a different location to place the manure and that a manure management plan be developed that follows best management practices. According to the DEEP's *Manual of Best Management Practices for Agricultural*, page 36, "If more compost is being produced than can be used, arrangements MUST be made for the off-farm use."
9. Mr. Koval indicated that flies are becoming a problem. Manure piles can become a breeding place for flies if not managed appropriately, especially with all the rain that has fallen this summer. The committee recommends contacting Torrington Area Health which oversees public nuisances caused by flies.
10. It is the committee's understanding that various agencies have visited or will visit the property to assess the complaints brought before the Zoning Board and are still working on the case. The HAC recommends continuing to work with the DOAG, TAH, DCP, USDA, and the DEEP. Other agencies that may be of assistance include UConn Cooperative Extension, and the USDA Natural Resources Conservation Service.
11. The HAC recommends having the Oliveira's attend a zoning meeting to explain and answer questions about their business practices as they relate to Harwinton Zoning Regulations. The committee also recommends that the Zoning Board utilize the town attorney as necessary.

The Harwinton Agricultural Committee fully supports farming operations when generally accepted agricultural practices are followed as well as local, state, and federal laws and regulations are followed.

Sincerely,


Michael J. Orefice

Harwinton Agricultural Committee Chairperson

