

HARWINTON ZONING COMMISSION
MONDAY, DECEMBER 11, 2023
TOWN HALL 7:00 P.M.

Present: Chairman Daniel Thurston, Secretary Theodore Root, William Ponte, Deborah Kovall, Michelle Whitford, Alternate Member Dave Foster, Alternate Member Stephen Smith, Land Use Coordinator Polly Redmond and Zoning Enforcement Officer Don Truskauskas

Also Present: Atty. Kent Mancini

Absent: Alternate Member Victoria Elliot

PLEDGE OF ALLEGIANCE

1. OPEN MEETING ESTABLISH QUORUM.

Chairman D. Thurston called the meeting to order at 7:00 p.m. All regular members present are seated.

2. APPROVE MINUTES OF PREVIOUS MEETING: 11/27/2023

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

3. PUBLIC COMMENT. None.

Commissioner Deborah Kovall recuses herself at this time. Alternate Member Dave Foster is seated in her place.

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

Mr. Hock is present with his attorney, William Conti, Conti, Levy, Salerno & Antonio, LLC, Torrington, CT. Atty. Conti wishes to verify items he submitted into the record at the November 13, 2023 Zoning meeting that includes a copy of the December 10, 1990 Zoning meeting minutes when Mr. Hock submitted an application for construction of a barn to house animals. Copies of letters (8) from family members, animal suppliers and customers of the Hock farm attesting to the fact that the farm always had animals, sold animals and slaughtered animals. Those letters are from Mr. Maddox, Spring Acres Farm, Bethlehem, CT, who writes that the Hocks have come to their farm to purchase calves and chickens and that he continues to raise angus together with Mr. Hock. Robert Hedus, Manager, Blue Seal Feeds, Litchfield, CT, writes that Peter Hock has been a customer of Blue Seal and has been purchasing various kinds of livestock feed and other farming essentials over the last 40 years from the store. Robert Miner, G and C Miner Farm, North Stonington, CT, writes that since 1984 he worked on the farm and his business dealings with Peter Hock included selling hay and cattle and buying cattle from Mr. Hock at the Conrad Hock Farm on 797 Hill Road. A letter from Terri McGray, 803 Hill Road (also named in the Notice of Possible Violation sent out 5/23/2023 as part owner of 797 Hill Road) writes that she was raised on the farm at 797 Hill Road and there were always cows, rabbits, pigs and chickens on the farm that were sold. She states that not everything was raised on the farm but that her father would purchase animals from local farmers for re-sale and that various farm animals would be slaughtered or sold alive. Michael Kennedy writes that he has been purchasing beef, pork and eggs from Peter Hock since the early nineties. Richard Robillard, 767 Hill Road, writes that he has lived in Harwinton for 48 years and “Red” Hock had farm animals on the property and animals are still on the property. Joyce Hock Leifert, 111 Litwin Road, Litchfield, CT, (also named in the Notice of Possible Violation sent out 5/23/2023 as part owner of 797 Hill Road) writes that when her father, Conrad Hock, bought the farm it was already in existence with a large barn, pig pens, rabbit cages and chicken coups. Beef cattle and pigs were brought in and she remembers when her father butchered he would take the meat to the locker plant. Philip Murphy writes that he has known Peter since 1972 and at that time Peter and his father were raising pigs, had horses and many other animals. Also submitted was a copy of a 1943 hand-written receipt for the sale of the “20-acre farm” to Conrad Hock purchased from Ms. James Ball for \$4000.00.

Tonight Atty. Conti submits a copy of the Town of Harwinton Farm Ordinance #140 and also a copy of the State Statute on Right to Farm. LUC Redmond questions if Mr. Hock has brought documentation of proof that he is registered with the Secretary of State as a business as he agreed to do at the 11/13/2023 Zoning meeting. Atty. Conti looks through his files but cannot find the copy that he said he brought for tonight's meeting but is now misplaced. He states that the filing for the business took place on 5/4/2023 as an LLC under the name Cedar Hill Farm, and that all farms are LLC. ZEO D. Truskauskas questions who are the members of this LLC with Mr. Hock replying, just himself. Mr. Hock states that he has just re-registered with the state as a farm but had let the license lapse due to his illness. Atty. Conti states that the Hock property has been a farm for 70 years and is now a preexisting use, therefore, Zoning rules are not applicable. To change the rules now and ask Mr. Hock to comply, Atty. Conti states that they would challenge that. LUC Redmond questions William Kovall, 789 Hill Road, complainant, what his complaint was for, the retail operation or the keeping of animals as a business. Mr. Kovall answers that his complaint was for the retail operation. Atty. Conti states that farms that are selling product makes them retail. LUC Redmond questions Mr. Hock if animals are slaughtered and packaged on site with Mr. Hock replying, no, that beef and pork are brought to Plymouth Meats.

William Kovall, 789 Hill Road, complainant, distributes to Commissioners a copy of the Secretary of the State of CT Certificate of Organization for Cedar's Hill Farm LLC (Agent's Name: Peter Hock), listing the activity as "All Other Animal Production" at 797 Hill Road, Harwinton, CT. Mr. Kovall submits a copy of the Secretary of the State of CT Certificate of Organization for Delicias da Fazenda LLC (Agent's Name: Ricardo Jorge Dutra Oliveira), listing the activity as "All Other Animal Production" at 797 Hill Road, *Thomaston, CT* (no such address). The residence listed on the Certificate for Ricardo Jorge Dutra Oliveira is 72 Thomaston Road, Harwinton, CT (no such address). Mr. Kovall reads a prepared statement, which is made part of these minutes. W. Kovall states that the Commission should look to Atty. Kent Mancini for guidance.

Atty. Conti states that the activities taking place at 797 Hill Road are preexisting and that Delicias da Fazenda LLC has nothing to do with this. Mr. Kovall states that the activities that have been taking place on the property for the past years were for the homeowner's benefit only and now the activities taking place there are for the benefit of someone who is not even living there.

T. Root asks Atty. Mancini for input with Atty. Mancini stating that the weight of evidence is up to the Commission to decide and whether the Commission is convinced of the non-conforming legal claim being made by Atty. Conti or does the Commission believe the activities are in violation of the Zoning Regulations. Atty. Conti states that it is irrelevant, that the use is preexisting. W. Kovall states that the activities never included being a business operation but now it is a business with other people operating it and not for Mr. Hock's sole benefit. He also states that the distance from the structure housing the animals met the 50-foot setback when the activities were for personal use. Now that the activities are business in nature, and not primarily for the benefit of the occupants, the setback distance must be 150 feet and it does not meet that. Atty. Conti states that when the farm was first opened, those regulations did not exist. Atty. Mancini states that a question from one of the Commissioners in the past was, what is the definition of "raised" in connection with Zoning Regulation 4.1b that allows for slaughtering of livestock and poultry *raised* on the premises. He states that there is no definition of "raised" in the Zoning Regulations. There is no dispute that product is being brought in to 797 Hill Road but as Atty. Conti said, these things occurred prior to Zoning so it is up to the Zoning Commission to decide if this is true.

T. Root questions if there is evidence proving that this was a farm years ago? Does the Commission know Mr. Hock was selling product not produced on the farm? ZEO D. Truskauskas states that the (8) letters Mr. Hock submitted show this to be true. Mr. Kovall states that he believes the Zoning Regulations cited have been in place prior to activities taking place. Activities at 797 Hill Road in the last year have changed with clientele visiting, it is no longer a family farm. T. Root states that with the evidence provided from Mr.

Hock, if true, if pre-dates Zoning, it is up to Mr. Hock to prove he sold product not produced on the property. He is not sure the Commission has been convinced of this yet. If Mr. Hock was growing and selling corn years ago but is now not and is bringing it in, this needs to be proven. Mr. Hock states that most of the customers he has had and sold product to are no longer alive. Atty. Conti states that he and Mr. Hock will obtain letters of proof and return before this Commission at their next meeting on January 8, 2024.

Mr. Kovall states that Mr. Hock is not a farmer, the operations taking place is a business. T. Root states that the State of CT leaves the door open in differentiating between farm and business farm. Mr. Kovall states that the town's rule supersedes the states. Mr. Kovall asks Commissioners to look at the old Zoning Regulations, specifically from 1988. Mr. Hock's barn, that burned down and has been replaced with a temporary Quonset-style structure, was built in 1990. Zoning Regulations on Keeping of Animals (Section 6.5), the setbacks are still not being met and the building is being used as a business.

T. Root suggests that Commissioners put some questions together for Atty. Mancini. Discussion on this matter will continue to the next Zoning meeting, January 8, 2024 at 7:00 p.m.

Commissioner Deborah Kovall is reseated. Dave Foster is unseated.

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

Mr. Lopardo is present along with David Battista, P.E., Haley Ward (previously from the engineering firm Laurel Engineering) who is present for Todd Parsons, P.E., the professional engineer of the 2007 site plans for Sunset Ridge but who could not attend tonight's meeting. (Todd Parsons, P.E., Haley Ward, previously from the engineering firm, Lenard Engineering.) (Haley Ward acquired Laurel Engineering and Lenard Engineering.) Mr. Lopardo distributes photos of the swale and showing connection to Catch Basin 18. The swale has been hayed but not seeded and won't be until spring. He states at Catch Basin 12 he is having curbing put in but also looking into an asphalt chute which would allow for mowers, etc. to get into the area. If there is no curbing, he believes water will find its way down to the catch basin. Lillian Busse, 15 Hannah Way, from the audience, states that at the end of the street there are two openings with no curbing already. There is another area where new houses are going up where some sort of curbing with a swale going down should be installed. T. Root at this time would like to hear from David Battista. Mr. Battista refers to plans submitted tonight titled Site As-Built prepared by GM2 Associates, Inc., (copied and used for reference) dated April 2023, and Sheet 2 titled Supplemental Details prepared by Dave Battista, Haley Ward, dated December 7, 2023 that details the approximate areas of slope failure and proposal to grade slope to 2H:1V and place topsoil, establish turf, and place erosion control blanket along with showing detail of the Typical Section Underdrain and Typical Section Underdrain and Stone Slope. Mr. Battista states that failure of the bank at 31 Hannah Way was due to heavy rains that weakened the soil and also may be because of the plantings planted on the bank, but mainly it was weather driven. He explains that a stone drain will be created at the toe of the slope with a stone blanket dug into the hill, referring to the diagram on Sheet 2 Supplemental Details. He notes that water will be piped to the nearest catch basin in a location with gas line pipes so the area will need to be carefully worked around. The stone blanket will be placed ten feet up the hill that will create a 2:1 slope. T. Root questions the timing of this and whether seeding would take place in the spring with Mr. Battista replying, yes, the slope will be hayed and seeded in the spring. T. Root questions whether there are any concerns of the soil types in this area with Mr. Battista replying, he believes grass will grow in this area. LUC Redmond questions whether all work will be done now with T. Root stating he would like to see it done now. Mr. Battista states that work can start now. Lillian Busse states that she would like to see the existing vegetation remain including the new plantings. She does not want to see them dug up.

George Perlotto, 33 Hannah Way, questions how far up the rip rap will go with Mr. Battista answering, ten feet up and it will be 10' x 10' wide. Mr. Perlotto states that the water that came off the bank was from off site, not just due to the water table increase with Mr. Battista stating that the runoff may have increased the water table.

Cynthia Lucian, 31 Hannah Way, refers to the letter Len Lopardo submitted at the previous Zoning meeting he attended on November 27, 2023 from David Curtis, his excavating contractor. She states that Mr. Curtis is not an engineer or a surveyor yet his letter explained the slopes and the possible reason for its failure. She states she would like to see the surveyors report from a November 18, 2023 visit to the site. Mr. Lopardo states that the site plans provided tonight is the report from that visit and shows the slope at 2:1 and 3:1 in some areas. He states that he did everything that has been approved and now is looking for an approval on what is being proposed to fix the problem. D. Kovall states that the proposed work seems to be a good start with receipt of the plan and it is "a" solution but perhaps the water that comes down the hill might be something also to consider doing.

Christine August, 22 Hannah Way, questions whether drainage amounts can be done to know how much water comes onto the site with Mr. Battista answering, if Mr. Lopardo wants to hire him to do that, he would. D. Kovall states that it would be prudent to look into this.

LUC Redmond questions the timeframe to start the work being proposed with Mr. Lopardo stating that he has not scheduled anything yet and that work might not start for a few weeks because his contractors are at other sites. He states he will do it as fast as he can.

Mr. Lopardo asks the Commission if they will allow a Certificate of Compliance be issued for occupancy on the second to last unit as the buyers are ready to close on it. He believes it's not fair to them to be penalized and not be able to move in. He states that he has done everything to plan and he also asks for a bond reduction. Mr. Lopardo asks Commissioners to take a vote on allowing the release of Certificate of Compliance. Commissioners do not vote on issuing a Certificate of Compliance and informs Mr. Lopardo that any bond reductions would have to go before the Board of Selectmen. ZEO Truskauskas states that he will put a list together on what is required of Mr. Lopardo and advises him to provide him with an as built. Mr. Lopardo is to move forward with the plan presented tonight.

Commissioners agree that in reference to the curbing and asphalt chute mentioned at the beginning of this discussion, they believe asphalt and curbing to the catch basin is what should be designed and implemented.

This matter will be placed once again on the Zoning Commission's January 8, 2024 meeting.

6. PICKETT BROOK PROPERTY, LLC – REVIEW AND RENEW OF MODIFICATION OF ZONING PERMIT NO. 6205 FOR LEASES REMAINING ON FILE IN THE LAND RECORDS.

Land Use Coordinator P. Redmond informs the Commission that Pickett Brook Property, LLC's Modification of Zoning Permit No. 6205 is up for annual review and renewal according to the Zoning Commission's approval on January 8, 2022 and renewal of the permit on January 9, 2023. LUC Redmond confirms that the leases are still on file in the land records and remain in effect. W. Ponte **motioned** to approve the renewal of the modification of Zoning Permit No. 6205, seconded by D. Kovall. Commissioners will review again in January 2025.

7. COMPLAINTS/ENFORCEMENT ACTIONS.

None.

8. ANY OTHER BUSINESS.

LUC Redmond reports she received a request from Silencer Central as follows:

“I am writing on behalf of Silencer Central. We specialize in the sale of NFA Suppressors. We are looking to change the address of our FFL (Federal Firearms License) in CT from **xxx Road, BANTAM, CT 06750** to **xxx Road, Harwinton, CT 06791**. {**Addresses being withheld for privacy but remain on file in the Land Use office.*} The ATF is requesting that we get documentation with the approval of this address change from the local zoning board. This location **will not have any customer foot traffic**, it will **not keep any items in inventory**. All inventory is held at our Headquarters in Sioux Falls, SD.”

The request goes on to say:

“The basic business model of Silencer Central is the following.

- Connecticut customer purchases a suppressor from Silencer Central online
- Silencer Central HQ in South Dakota will work with the customer to fill out all ATF paperwork online and over the phone
- Once paperwork is approved by the ATF, Silencer Central HQ will ship their item to our local CT FFL (Harwinton CT)
- Once the CT FFL's responsible person receives the package in the mail, they will open the package and reship it directly to the CT customers front door. The CT FFL will have the package at their location for less than 24 hours.
- Silencer Central is compliant with all ATF rules and regulations. Silencer Central has been operating with this same business model in Bantam CT since 2019. We are requesting to change our business location from Bantam Ct to Harwinton CT at the address listed earlier in this email. No firearms or items other than suppressors will be shipped to this location.”

They would like to receive a letter from the Zoning Commission/Land Use office that states this is an approved activity. Commissioners would like to look further into this before any action is taken.

9. INFORMAL DISCUSSION – PROPOSED ZONING REGULATION AMENDMENTS.

LUC Redmond informs Commissioners that a call from Nick Zito, DEEP CT Forestry, called asking if Zoning Regulation 8.6 has been amended yet to remove the sentence “...or where any Timber Harvest Permit has been obtained from the State.” If it is not removed within six months or so, he states that DEEP may force a Show Cause Hearing to have it removed.

10. CORRESPONDENCE.

None.

11. INVOICES.

None.

12. ADJOURN.

W. Ponte **motioned** to adjourn the meeting at 9:10 p.m., seconded by M. Whitford. Motion passed unanimously.

Respectfully submitted,

Polly Redmond
Land Use Coordinator

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DEC 19 2023
HARWINTON
TOWN CLERK

Submitted 12-11-23 bring
by W. Kovall

Facts about 797 Hill Rd, Harwinton, CT

11/12/2023

- 1.) The business, Delicias Da Fazenda LLC, registered with the state of Connecticut, began operations at the referened address on 1/3/2023. Mr. Hock is not listed on the filing as an owner or member of the LLC.
- 2.) Section 6.5 of the Harwinton Zoning Regulations (HZR) specifies different side lot distances for non-business and business operations, regarding the keeping of animals. Based on item (1) above the activity at 797 Hill Rd. is clearly a business. A non-business is defined by this section as primarily for the benefit of the occupants of the premises and not in connection with any business or commercial agricultural operation. The principles of Delicias Da Fazenda LLC do not live at 797 Hill Rd. as evidenced by their residence address filed with the state of Connecticut Secretary of State (Filing # 0011610743 on 1/3/2023)
- 3.) The board was presented with an A2 survey map of the 797 Hill Rd property that clearly shows that the hoop house, which houses the majority of the animals, cannot physically be positioned in its present location to meet the 150ft. side lot line requirement. The hoop house is positioned such that the total property width at that point is a maximum of 319ft. Subtracting the width of the structure which is 36ft leaves a remainder of 283ft, dividing that by 2 leaves 141.5ft to each side lot line if it were centered on the property. However, it sits 116ft from my side lot line per the A2 survey. As such none of the other existing structures meet the 300ft. requirement for the keeping of poultry. (per section 6.5 of the HZR)
- 4.) The building permit originally issued (1991) for the barn that burned down and was replaced by the temporary hoop house, was provided for non-business use based on the recorded minutes of the Zoning Commission.
- 5.) The property card for 797 Hill Rd. (reference parcel ID 1258) specifies that none of the property is designated farmland.
- 6.) Per section 4.1c of the (HZR)

PERMITTED USES IN RESIDENTIAL ZONES

4.1.c. Roadside stand for sale of farm produce provided that the produce offered for sale is produced on the farm on which the stand is located.

It has been noted by Mr. Hock that he brings in animals and produce for resale. Since these are not produced on the property, it is a violation of the requirements for a roadside stand in the town of Harwinton (ie. Honey being advertized for sale that is produced in Pennsylvania). If the board approves of this action, it is a huge sign of disrespect for all of the farmers in Harwinton that actually abide by the regulations. Additionally, it then opens the door for any other farm in the town to open a grocery store and/or slaughter house operated by an outside business interest.

This investigation process has continued long enough, the above facts provide ample reason for the commission to act and issue a cease and desist order immediately.

Respectfully,
William A. Kovall

W. Kovall 12/11/2023

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