

PLANNING & ZONING COMMISSION REGULAR MEETING NOVEMBER 10, 2020

Present: Regular members Keith Bodwell, James LaPorta, Stephen Saccardi, Anna Timell and Phill West, alternate Christine Gray and LUA/ZEO Karen Griswold Nelson.

Absent: Alternate Tommy Eucalito.

Others present: Planning Consultant Janell Mullen and Gordon Ridgway, ex-officio.

Chairman Anna Timell called the regular meeting to order at 7:04PM with a quorum established.

**Potter Woods – Subdivision of Land to include 2 Parcel Lots –
Virginia Potter owner/Cornwall Housing Corporation applicant – 337 Town Street.**

The entire Zoom proceedings were recorded and are available on the Cornwall Town website.

Chairman Anna Timell called the hearing to order at 7:08PM with regular members Ann Timell, Keith Bodwell, James LaPorta, Stephen Saccardi and Phill West seated for the hearing.

The legal notice as posted in Town Hall and Town website (timestamped October 26, 2020) was read into the record by staff (Karen Griswold Nelson/kgn)

Information listed in the record and posted on the Town Website, prior to 7PM November 9th, 2020 as required by emergency Covid 19 measures. (kgn)

- A copy of the application as found on file in the Land Use office, and available electronically by request to the Land Use office Application signed by applicant/owner.
- Mapping entitled: Potter Woods Prepared for Cornwall Housing Corporation by Hrica Associates, dated August 26, 2020 – 337 Town Street. Sheets include Subdivision Map, Site Development Plan, Erosion and Sediment plan.
- Email communication from Ginni Block with letter attached.
- Email communication from Hector Prud'homme with letter attached.
- Email correspondence from Barton Jones
- Email communication from Ella Clark.

Information made part of the record at the evening's meeting (kgn)

- List of abutting neighbors
- Inland Wetlands report and wetland presentation map referenced in IWWA minutes.
- Email from Marc D (Doc) Simont (abutting neighbor)
- Email from Ginny Potter addressing communication from abutting neighbor Oliver Platt.
- Email correspondence from Susan Francesco.
- Torrington Area Health Approval dated November 9, 2020 (Faxed to Town Hall)

Excerpts from all correspondence was read into the record by staff. (Kgn)

Griswold Nelson addressed the administrative waiver of the mylars as required by: Subdivision regulation 4.2 Record Subdivision Map. The record subdivision map shall be prepared with an accuracy meeting or exceeding standards for a "Class A-2" type of survey as specified in the "Code of Recommended Practice for Standards of Accuracy of Surveys and Maps," approved by the State Board of Registration for Professional Engineers and Land Surveyors. **All maps shall be clearly and legibly drawn on polyester film (mylar) .003 thick or better, on sheets of 18" x 24" or 24" x 36".**, noting that such waiver had been addressed before.

The floor was opened to the applicant's representatives for their presentation.

Attorney Peter Ebersol and Kenneth Hrica, engineer with an office in Litchfield, were in attendance to represent the application on behalf of the applicant, the Cornwall Housing Corporation and the property owner, Virginia (Ginny) Potter.

Attorney Ebersol addressed the application both in compliance with the subdivision regulations as well as the special permit for the two town sponsored lots as defined in Section 8.26 - Town or Non-Profit Sponsored Lot wherein the zoning regulations allow the creation of lots of at least one acre in size to be created in an R-3 or R-5 residential zone for affordable housing. Note was made that the two town sponsored lots exceeded one acre.

Kenneth Hrica was given permission to share the screen with the presentation map (referenced in the record) showing the subdivision, a 28.3-acre property on the west side of Town Street in a R-3 zone with 2 town sponsored lots (1 to the south containing 1.17 acres and lot 2 to the north, containing 1.2 acres (kgn) the third lot containing the original Potter house (5 acres) and 20.91 acres of land to be donated in perpetuity to open space. Mr. Hrica addressed the design showing the 50' x 30' rectangular boxes to contain the proposed small houses with modest driveways and septic system

Mr. Hrica stated that all of the 3 residential (new and existing) would be served by sewer and water with gravity fed septic systems, designed with reserve areas for all three lots.

Mr. Hrica addressed the "inspiring" part of the subdivision, with the 3 lots and a total area of a 28.3-acre parcel containing 20.91 acres of land to be protected in perpetuity as open space, calling the combination of lot sizes and the open space creating an ideal situation that sets the character of the neighborhood and fits the character of the neighborhood with the amount of open space and the design.

In response to questions, (LaPorta), Mr. Hrica stated that both of the driveways complied with driveway grade, (4 feet of elevation of change from the road to the houses)

Griswold Nelson asked that First Selectman Gordon Ridgway report on the driveways to the three lots as shown. Mr. Ridgway stated that driveway locations were fine with good site lines in an area of very lot traffic. Mr. Hrica added that all lots contained areas for turnarounds so as prevent cars from backing into Town Street and provide additional parking on the lot.

Commission member Keith Bodwell asked for details and clarifications on site design features including depth of swales and curtain drains, and areas of slope on one of the lot (lot 3)

Griswold Nelson pointed out that the Inland Wetlands report required re-application to the wetlands approval of final construction plans. In response to questions, (Timell) the clarification of approval of a zoning permit was addressed (Griswold Nelson) with the wetlands report read into the record for clarification.

In response to questions, (Bodwell) there was clarification as to the septic systems and construction of the homes being constructed partly within a buildable area (not required by the regulations) shown on the plans. (Hrica and Griswold Nelson). Mr. Hrica addressed other setbacks (from property lines) taken into account in the plan design.

Mr. Ebersol addressed how the application satisfied affordable housing standards in the Cornwall Affordable Housing standards in that there would 99 year leases and deed covenants on the income requirement of those living in the two new affordable housing homes.

Mr. Ebersol addressed other general (Article 8.5-3b) and special permit guidelines (8-26) as part of the special permit (8.26) for the two town sponsored (Cornwall Housing Corporation kgn) affordable lots, including the design being in compliance with the orderly development and character of the neighborhood. Mr. Ebersol pointed out that the record showed letters of support from abutting neighbors that addressed the subdivision as designed fitting into the character of the neighborhood and goes a long way in establishing that fact that the plan was not being detrimental to health safety and welfare of the neighborhood.

Lisa Keskinen, Town Street, (Ginny Potter's) niece and neighbor) spoke in favor of the application on behalf of herself, her mother Peg and sister Mindy (all abutting neighbors) and that all were looking forward to welcoming new folks to the neighborhood.

Gordon Ridgway spoke in favor of the subdivision, calling the application as meeting a timely need in Cornwall and cited the leadership shown by the Potters over their many years in Cornwall and the great things that the Potters had done for the town over the years.

David Colbert, citing his time as a P&Z commission member, called the application exemplary and generous and hopefully setting an example for others to follow.

Karen Griswold Nelson, Land use administrator & ZEO, spoke of her own personal support of the application, the applicants and the property owner, citing the application as an example for other towns to follow.

Motion made by Mr. LaPorta, seconded by Mr. Saccardi to close the public hearing for **Potter Woods – Subdivision of Land to include 2 Parcel (Town sponsored) Lots (as provided for by Section 8.26 - Town or Non-Profit Sponsored Lot) - Virginia Potter owner/Cornwall Housing Corporation applicant – 337 Town Street** at 7:41PM: unanimously approved.

Amendments to the Zoning Regulations brought by the Planning & Zoning Commission: Attainable Housing Cut – New section Article 5 Section 14.

The public hearing was opened at 7:42PM.

The entire Zoom proceedings were recorded and available on the Cornwall Town website. Chairman Anna Timell, prefaced the amendment changes being brought forth stating that the proposed amendment was initiated by the P&Z in response to certain conditions that exist in Cornwall, which were reflected in the goals and strategies of the 2020 Plan of Conservation and Development, Ms. Timell stated that is generally accepted that having to pay more than 30% of one's income for mortgage payments or rent makes a home unaffordable. The last data available from the census bureau as of 2013- 2017 indicated that the median house value in Cornwall was \$439,600 as opposed to Litchfield County's median of \$250,100. Also, the percent of homeowners in Cornwall whose mortgage payments use up more than 30% of their income was 35%, where for renters, 43.7% reported paying more than 30% of their monthly income for rent.

Janell Mullen, introduced herself, and gave a background of her credentials, her position with the NWHCOG and her work with the Commission in both regulatory changes being brought forward as well as comprehensive work and updates on the greater body of regulations. (Zoning Regulations) Ms. Mullen gave an overview of the amendment being proposed and minor changes to the draft on the website site (removing the word "free"). The screen was shared to show the language of the regulations with Ms. Mullen giving an overview of the new regulations regarding the term "attainable" as differing from the State of Connecticut definition of "affordable", the definition of "buildable lot", and other provisions that come into play with all applications for housing such as driveways, septic, hazardous materials etc. in all residential zones. Ms. Mullen addressed the provision for division of land outside the subdivision regulations.

Information listed in the record and posted on the Town Website, prior to 7PM November 9th, 2020 (kgn)

- Legal notice was referenced as part of Subdivision application.
- Amendments on file in the Town Clerks Office 10 days prior to the hearing and posted on the Town website
- Email communication from Ginni Block, with letter attached.
- Email communication from Hector Prud'homme with letter attached
- (Email correspondence from Barton Jones/not listed)
- Email communication from Ella Clark

Information made part of the record

- Email correspondent from David Colbert.
- Email correspondence from Caroline Nastro

Griswold Nelson read into the record excerpts from both pieces of correspondence (Colbert and Nastro) that appeared to pertain to the regulatory change being addressed. Griswold Nelson addressed statutory references to free/first cut (Nastro letter) and similar regulations in surrounding towns that have been upheld legally and verbiage in the Plan of Conservation that supported the recommendation.

Gordon Ridgway addressed other citizens in Cornwall that were willing to follow the example of Ginny Potter in creating regulatory changes that

Caroline Nastro addressed “language” changes in the David Colbert letter dated November 9th and if they were being addressed. In response, chairman Timell, noting that she had read the Colbert correspondence, recommended that the recommended changes were appropriate and that those changes would be incorporated as part of any action. In response, Ms. Mullen and chairman Timell addressed the proposed changes (as shown on a shared screen) with clarification by Ms. Mullen regarding the language and other controls in place that addressed the concerns expressed by Ms. Nastro in her correspondence. Based on input from Commission members Bodwell and Grey, there was clarification as to language needed for clarity (better definition of subdivision) and the differences between the Potter application (subdivision and cuts).

Chairman Timell asked the Commission to consider continuing the public hearing to allow changes to the regulations as discussed and with final comments from Nastro.

Motion made by Mr. Bodwell, seconded by Mr. LaPorta to continue the public hearing for **Attainable Housing Cut – New section Article 5 Section 14** to the December 8 regularly scheduled meeting unanimously approved.

Home Businesses –To replace Section 8.16-8.21, which is to be removed from Special Permit Requirements.

The entire Zoom proceedings were recorded and available on the Cornwall Town website.

Chairman Anna Timell opening the hearing, stating the regulatory amendment was brought forth by the Commission in response to certain conditions that prevail in Cornwall, and was tied to 2020 Plan of Conservation and Development. Mrs. Timell addressed the latest information from the Census Bureau in 2017 that 16.2% of Cornwall residents worked from home and 26% were self-employed at that time. It was suggested that many more were now staying home. The corresponding percentages for Litchfield County and the state as a whole were in single digits, not double digits. Cornwall is unique. During the 2019 Cornwall Wide survey conducted by the P&Z 52% of respondents felt that increasing opportunities for businesses to establish themselves here should be among the top 3 priorities for the town.

Chairman Timell opened the floor to Janell Mullen. Ms. Mullen shared the screen to show the final version being addressed and addressed the background of the proposed changes. She noted that home businesses are currently in the regulations under special use (permitting) defining the 4 categories and criteria’s to be in those categories with certain criterial She stated that the Plan addressed making home based business regulations more user friendly for businesses and the way to make the regulations easier to use. Noting concerns raised in correspondence received, Ms. Mullen addressed the change to move the regulations over to site plan approval with the submission of a site plan that is very prescriptive and geared to small scale operations and accessory to the primary use.

Ms. Mullen addressed changing the regulations to bring more information into the front end, how the land was going to be utilized such as the use of the lot relating to the street, etc. Ms. Mullen gave an overview how applications would be prepared, the meticulous detailed information needed and the process for review and approval based on the prescriptive details supplied with stress being placed on the lot supporting the use being proposed in and unto itself. Ms. Mullen addressed how the new regulations would fit into the current regulations and the changes being made to the current regulations to support the proposed regulations. Ms. Mullen addressed reading and addressing concerns raised in correspondence received (prior to the hearing and posted on the website.)

The floor was opened to the public.

Gordon Ridgway, First Selectman, thanked the commission for their work to update the regulations, and being proactive to address citizens' wishes to work where they live and have goods and services in town. Mr. Ridgway noted numerous references in the Plan regarding the need for modern regulations to make it easier to work from home, calling the regulations timely and an important evolution and a very popular and important concept of the Town Plan.

Christine Gray, raised questions regarding the owner of the property in relation to the entity operating the business. In response, Ms. Mullen addressed the application process and information in the application that would address that issue and the connection to the Land Use permitting.

David Colbert raised questions as to Ms. Mullen's comments to specificity and whether there was going to be additional specificity added to the amendment or to the site plan requirements. Ms. Mullen addressed how an application under the new amendment would be brought forth offering information to the commission rather than the commission specifying what they needed to address the site plan and if they have enough information to act on the application. There was general discussion as to meaning of the word literal, and the commission's ability to impose conditions on site plan approvals as compared to special permits, and the Commission's discretion in the approval process.

Mrs. Timell suggested that the re-working of the regulations separate from the regulations being brought forth was raising questions and concerns. In response, Ms. Mullen addressed issues that can be made by Commissions when they fail to act appropriately with discretion and make opinion decisions, adding that she was aware of the concerns being addressed in his letter and would cause the Commission to rethink parts of the process.

Mr. Colbert, stated that in his opinion, that the home business regulations being proposed were the most radical overhaul of the Zoning regulations that he had seen and that it would turn residential zones into mixed use residential/commercial industrial zones and by taking special permits off the table it stripped the Commission of meaningful oversight and deprives neighbors of advanced knowledge of large commercial development next door.

Mr. Colbert suggested that the regulations were at odds with the Commission's core responsibilities and the Town Plan and added that public hearings were the opportunity to solicit information from the public. Mr. Colbert addressed concerns regarding the setting of the public hearing without advance warning in the Chronicle with discussion between the chairman Anna Timell and Mr. Colbert regarding "public comment".

Annie Kosciusko thanked the Commission for tackling the re-writing/re-organization of the regulations, deeming them a convoluted nightmare. Mrs. Kosciusko stated that she wanted to totally and completely second all of Mr. Colbert's sentiments and concerns as expressed regarding the change from special permit to site plans. Mrs. Kosciusko addressed concerns regarding the owner of the business not being the operator of the business.

Christine Gray, addressed concerns between the regulations relating to business zones and residential zones. In response, Ms. Gray suggested that the regulations only apply to residential zones.

Tobie Cornejo raised questions/concerns regarding the new regulations and current regulations with questions directed as to input from both current commission and former commission members and the challenges being faced. In response, James LaPorta, (16 years on the Commission) suggested that the proposed regulations might address business that have been running under the radar for years as well as help more people to be able to work at home. Mr. LaPorta addressed the current conditions (Covid) and it being an interesting time to be the Commission to address the change of the landscape from the current conditions. Ms. Cornejo addressed the consideration of photographic requirements for elevation and visual requirement that could be helpful in addressing new businesses. There was clarification (Timell) as to site walks.

Bruce Bennett addressed his past experiences as a greenhouse operator in Kent next to new residential zones and addressed issues that he had encountered as an operator and how he had dealt with it. Mr. Bennett addressed issues that other business operations such as trucking business and auto body operations could pose in terms of impact to residential development and to the detriment of the town. Mr. Bennett stated that he agreed with Mr. Colbert's assessments in terms of needing more control and leaving it as open ended as it appeared to be.

Caroline Nastro stated that she agreed with many comments of others and spoke to economic development and the rural character and beauty of a place such as Cornwall don't have to be in opposition to each other. Ms. Nastro raised her concerns as to the specificity of the language between the old and the new regulations, noting her concerns with the impact of the regulations on the rural character of Cornwall.

Motion made by Mr. LaPorta, seconded by Mr. West to continue the public hearing for **Home Businesses -To replace Section 8.16-8.21, which is to be removed from Special Permit Requirements** to the December 8 regularly scheduled meeting unanimously approved

REGULAR ZONING MEETING:

ZONING APPLICATIONS: (No discussion)

ZP# 1098 - James and Idella Shepard/dba Pluto LLC property owners/Hughes Memorial Library represented by Libby Mitchell – 415 Sharon Goshen Turnpike. Change of use from to allow office with 7 employees, community space, and retail food space with no public restrooms. Permit approved.

ZP#1099 – Grace Epstein applicant/Dark Entry Forest property owner – Change of use from a seasonal cabin to a single family residence – 18 Bald Mountain Road. Permit approved.

ZP#1100 –Devon Dobson dba Litchfield County Pools applicant/William Berry property owner- Installation of an inground pool – 135 College Street. Permit approved.

ZP#1101 – Patricia Bramley – Alterations and additions to an existing detached accessory apartment “cabin” – 27 Poughkeepsie Road.

ZP#1102 – Mary Hinchman and Russell Guerin owners/Ronny Lizana applicant – 17’ x 22’ foot garage – 104 Dibble Hill Road. Permit approved.

1. APPROVAL OF MINUTES: October 13, 2020

Motion made by Mr. Saccardi, seconded by Mr. Bodwell, to approve the minutes as presented: unanimously approved.

2. NEW APPLICATIONS. None.

3. PENDING APPLICATIONS. SUBDIVISION APPLICATION –

Potter Woods – Subdivision of Land to include 2 Parcel Lots – Virginia Potter owner/Cornwall Housing Corporation applicant – 337 Town Street.

Motion made by Mr. Bodwell, seconded by Mr. Saccardi, to (kgn clerical corrections) **APPROVE** the application of **Potter Woods – Subdivision of Land to include 2 Parcel Lots Parcel (Town sponsored) Lots (as provided for by Section 8.26 - Town or Non-Profit Sponsored Lot) – Virginia Potter owner/Cornwall Housing Corporation applicant** as per the Mapping made part of the record entitled: Potter Woods Prepared for Cornwall Housing Corporation by Hrica Associates, dated August 26, 2020 – 337 Town Street. Sheets include Subdivision Map, Site Development Plan, Erosion and Sediment plan, the supporting information as listed, and the oral and written testimony of the applicant and their representatives. It is the Commission’s finding that the application complies with all the pertinent sections of Cornwall’s subdivision regulations including the following: Article I 1.1 and 1.2 General Provisions, Article III Application Requirements, Article V General Standards, specifically 5.2.1 and 5.2.2, re: lot area and layout, 5.2.4 re: driveways and, finally, 5.7 Open Spaces. Furthermore this application meets 2 of the 6 goals of the Housing Section of the 2020 POCD, and supports the efforts of the CHC and increase first time homebuyer options. Motion unanimously approved

Amendments to the Zoning Regulations brought forth by the Planning & Zoning Commission: Attainable Housing Cut – New section Article 5 Section 14. Continued to December 8th regular meeting.

Home Businesses –To replace Section 8.16-8.21, which is to be removed from Special Permit Requirements. Continued to the December 8th regular meeting.

4. CORRESPONDENCE AND COMMUNICATIONS. None listed.

5. LUA/ZONING OFFICER’S REPORT. None.

6. OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION.

7. WORKSHOP MEETING – Workshop for commission members and staff on regulatory changes with Planning Consultant Janell Mullen. None.

8. ADJOURNMENT.

Motion Mr. West, seconded by Mr. Bodwell to adjourn at 9:15PM; unanimously approved.

Respectfully submitted,

Karen Griswold Nelson, for Commission secretary Phil West

