

PLANNING & ZONING COMMISSION REGULAR MEETING APRIL 13, 2021

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

Absent: None.

Chairman Anna Timell called the meeting to order at 7:05 PM with a quorum established.

PUBLIC HEARING:

Zoning regulation brought forth by the Commission entitled “Home Businesses – This Section is intended to delete and replace Section 8.16-8.21, which is currently entitled “Home Uses: (draft proposal (07) updated to March 30, 2021

The entire proceedings were recorded electronically (Zoom recording) and are available in the Cornwall Land Use office. Chairman Timell opened the public hearing at 7:05M. All regular members were seated for the hearing and alternate members given permission to ask questions. The legal notice, posted on the Cornwall website on March 2, amended to March 15th and as amended published in the Waterbury Republican on April 2 and April 8th was read into the record by staff.

Documents made part of the record: (as read by staff)

- A copy of the draft amendments on file in the Land Use office and on file in the Town Clerk’s office, time stamped 3/15/ 3/25/ and 4/01, 2021 in compliance with statutory requirements that the amendments be on file in the Town Clerk’s Office 10 days prior to the public hearing.
- Email Confirmation, Email Confirmation, from the Land Use office to Jocelyn Ayer at the Northwest Hills Council of Elected Official of the receipt of rough “unformatted” draft regulations sent to the Northwest Council of Government for review to comply with the 35 day statutory time frame.
- Copies of correspondence dated April 2, May 1 and May 4 from legal counsel
- Correspondence received and posted on the Town website prior to April, 13, 2021 (names only listed in the recording)

April 10, 2021 Land Use Office correspondence (posted on the website 04/11/2021) listing correspondence attached and received 04/05 – 04/10/2021

- 04/05/2021 email (attached letter) from Hector Prud’homme
- 04/06/2021 email from Joanne Wojtusiak
- 04/07/2021 email from Annie Kosciusko
- 04/08/2021 email from Michelle Shipp
- 04/08/2021 email from Chris Mullins
- 04/09/2021 email from Barton Jones
- 04/09/2021 email from Nita Colgate
- 04/10/2021 email from Catharine Wallace Harding

April 12, 2021 Land Use Office correspondence posted on the website 4/12/2021 - Part 1 of 2 (received April 11 prior to 6:30PM)

- 04/11/2021 email from Brian Savin
- 04/11/2021 email from John Harding
- 04/11/2021 email (attached letter) from Gary Stenkohl
- 04/11/2021 email (attached letter) from Casey Cook
- 04/11/2021 email from Betty Spence forwarded to the Board of Selectmen
- 04/11/2-21 email (attached letters from Jaime Longhi forwarded from the Board of Selectmen
- 04/11/2021 email (attached letter from Maggie Cooley)
- 04/11/2021 (attached letter from Gordon Ridgeway First Selectman)

April 12, 2021 Land Use correspondence posted on the website 4/12/2021 (Part 2 of 2)

- 04/12/2021 email (attached letter from Janet Carlson)
- 04/12/2021 email (attached letter dated 04/11/2021) from Caroline Nastro
- 04/12/2021 (attached letter) from Kim and Judy Herkimer
- 04/12/2021 email from Darilyn and Dermot Woods
- 04/12/2021 hard copy and email from Ann Zinsser
- 04/12/2021 email from Jennifer Dorsen
- 04/12/2-21 email (attached letter) from Arnon Fischer

April 13, 2021 Land Use Office correspondence posted on the website 4/12/2202 listing correspondence attached and received 04/12/2021 after 6:30PM prior to 11:45AM 04/13/2021

- 04/12/2021 email (attached letter) from Tobie Cornejo
- 04/12/2021 Email from Nora Prentice
- 04/12/2021 email from Joseph Brien
- 04/12/2021 email from Blaine Matthews
- 04/13/2021 email (attached letter from Virginia Kindred

Prior to opening the hearing to the public, chairman Timell read information into the record regarding process and protocol for the public hearing

“This public hearing concerns a proposed amendment to Cornwall’s home business regulations. The current regulation refers to the 1987 town plan and is therefore at least 30 years old. Connecticut’s general statutes paragraph 8- 2 authorizes a planning and zoning Commission to enact or make changes in zoning regulations. In a 1991 Superior Court decision the judge determined that “the zoning Commission is accorded broad discretion and the freedom to modify its regulations whenever time experience and responsible planning for contemporary and future conditions reasonably indicate the need for a change”.

The purpose of a Public Hearing is to allow residents to voice their concerns and opinions. It is not a public referendum. The only legal test required for the adoption of a zoning regulation is whether the action is in accordance with the town's comprehensive plan of conservation and development. However, citizen suggestions can be very helpful in finalizing a proposed regulatory change.

There appear to be a number of misunderstandings related to this proposed amendment, one is in regard to the so called NHCOG "template." What the template consisted of was not a model regulation for us to adopt wholesale, but instead a bullet list of reminders based on regulations in neighboring towns concerning the issues that should be considered for any home business regulation. Examples include storage of materials, parking, so-called nuisances and hazardous materials and several others. Generally, all of these were already part of our old regulation and are also a part of the proposed amendment. In fact, it is likely that Cornwall's 1987 Home Business Regulation was a major influence on the COG Guideline. Our current home-based business has been amended through a process that began in July of 2019 in discussion with our former land use consultant Tom McGowan. The discussion has continued with our current land use consultant Janell Mullen and we are here today to discuss the 7th iteration of the amendment. The amendment has been a locally initiated and locally determined process from the very beginning. No one in the NHCOG or the state of CT is at all interested in taking over Cornwall. Toby Cornejo asked what the root of these changes were. Although I have reported on this before, I want to revisit what I said: Cornwall is unique in both Litchfield County and the state as a whole in its large number of people who report working from home or being self-employed. The American Community Survey of the census bureau reported in 2017 that 16.2% of our residents stated that they work from home compared with 5.3% for Litchfield County as a whole. 26% reported being self-employed compared with 8.6% for the county. Many of the tradespeople who live here and provide services to your homes currently have what might be called Minor Home Businesses that are illegal because they don't have zoning permits. We want to bring them into compliance with our regulations without undue hardship. We also believe that there are many social and economic forces at work, one being of course the COVID pandemic, that are going to make working from home even more prevalent in the future. The reason we have not given examples of the types of home businesses we might consider under the 3 categories is that we expect these to change over time and would not want our regulation to become outdated within a short time.

Another source of misunderstanding seems to arise from failing to see that the amended regulation will exist within the robust framework of our entire set of regulations. Jaime Longhi asked what a remedy would be for a disputed problem. Article 1.5 of our regulations outlines those remedies which include cease and desist orders and fines for continued operation. A property owner violating the parameters of these regulations may have their permit revoked. If you carefully read Article 8 of the current regulations, which outlines Special Permit requirements, you will see that the approval criteria for a Major Home Business are actually more stringent rather than less. Another seemingly overlooked fact is that the ZEO and the Commission always has the discretion to require a special permit process for

any application whatsoever, whether it is a Minor Home Business or not. No applicant for a Zoning Permit is ever guaranteed approval.

Chairman Timell answered questions that were asked in correspondence received by the Land Use office relating to the public hearing from Jane Herald, Duncan McClelland, Kristine Stufano, Joseph Brien and Annie Kosciusko. Prior to opening the hearing to Public Comment, chairman Timell added comment relating to her hope that her answers to people's questions had demonstrated that information obtained through social media is often inaccurate and that the Commission intends to discuss whether to develop a Communication Policy in the near future, which may include a mechanism for answering questions in an ongoing way.

Protocol for the hearing was addressed, with the directive that those speaking limit comments and questions to the posted agenda and that one refrain from personal attacks and that anyone attending who makes such an attack would be muted for the duration of the meeting. Also, the 3 individuals who already submitted more than one statement to the Commission will be asked to wait until everyone else has had a chance to speak before we call on you. The time limit on comments the first time around is usually 3 minutes to ensure time for all who want to have a chance to make a statement.

Speakers in order of appearance

Rocco Botto – remarks regarding the proposed regulations

Terry Burke – remarks reinforcing Rocco's remarks

Anne Zinsser – referred to remarks in her petition included in the correspondence on the website

Anne Trowbridge – remarks regarding the proposed regulations

Gordon Ridgway – remarks regarding the proposed regulations

Phyllis Nauts – questions regarding the proposed regulations

Duncan McClelland – questions regarding the regulations proposed

Tobie Cornejo – questions regarding Zoning permits and zoning approval process

David Colbert – remarks regarding the proposed regulations

Jaime Longhi – questions and remarks regarding the proposed regulations

Joanne Wojtusiak – concerns regarding process and protocol

Caroline Nastro – concerns and remarks regarding the proposed regulations, protocol and process

Janet Carlson – remarks regarding the proposed regulations

Joanne Wojtusiak – concerns regarding process and protocol

Gordon Ridgway – remarks regarding protocol

James LaPorta – historic input on the proposed regulation

Caroline Nastro – concerns and remarks regarding regulations, process and protocol

Motion made by Mr. LaPorta, seconded by Mr. Saccardi, to continue the public hearing to the May 11, 2021 meeting.

REGULAR ZONING MEETING:

ZONING APPLICATIONS:

ZP#1111 – John and Catherine McMahon – 19’ x 25’ foot addition to a single family residence – 235 College Street
ZP#1112 – Brian Ackerman Builders LLC/Tatiana Kotchoubey owner – 7’ x 36’ covered front porch – 45 Pierce Lane. Permit approved.

ZP#1113 – Dermot and Darilyn Woods – alterations and additions to a single family residence - 370 Kent Road. Permit approved.

ZP#1114 - Joseph and Lynn Algrant owners/Allied Engineering – 218 square foot addition (patio/deck) to a single family residence- 163 Cream Hill Road.

1. APPROVAL OF MINUTES: March 9 regular and March 30 special meeting
Motion made by Mr. Bodwell, seconded by Mr. LaPorta to approve the minutes of the March 9 and March 30 meeting as presented: unanimously approved.

2. NEW APPLICATIONS. None.

3. PENDING APPLICATIONS:

Zoning regulation brought forth by the Commission entitled “Home Businesses – This Section is intended to delete and replace Section 8.16-8.21, which is currently entitled “Home Uses: (draft proposal (07) updated to March 30, 2021. (Public hearing continued to May 11, 2021)

4. CORRESPONDENCE AND COMMUNICATIONS

March 31st, 2021 correspondence to the Board of Selectman from the Cornwall Planning & Zoning Commission constituting a letter of support for the Waste Water Facility in West Cornwall. Noted as submitted and on file in the Land Use Office.

5. LUA/ZONING OFFICER’S REPORT.

Griswold Nelson addressed misinformation regarding the process for public comment to be made of record, noting comments on websites and misdirected to other town offices. Griswold Nelson stating that the proper method for submission of any written public comments to be made part of the record for the hearing and posted on the Town website must be submitted to and filed in the Land Use office

6. OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION.

7 ADJOURNMENT.

Motion made by Mr. West, seconded by Mr. Bodwell, to adjourn at 8:53PM; unanimously approved.

Respectfully submitted

Karen Griswold Nelson