PLANNING & ZONING COMMISSION REGULAR MEETING JULY 12, 2016

Present: Regular members David Colbert, Jill Cutler, Peter Kalmes, James LaPorta, Stephen Saccardi, Anna Timell, alternate member Ginny Potter, Commission Planner Tom McGowan and LUA/ZEO and Commission clerk Karen Griswold Nelson.
Absent: Dermot Woods.

Chairman David Colbert called the meeting to order at 7:09PM.

PUBLIC HEARINGS:
Amendments to the Zoning Regulations to add language to Article 1, Section 1 – “Purpose”, to add, delete, and modify language in Section 5.11 – “Farmers Market, to modify language in Section 9.15.2 “Parking”, to delete language in Section 5.2 “Minimum Livable Floor Area” and to modify language in Section 8.10.4.2 “Accessory Apartment”

The entire proceedings were recorded electronically and are available in the Cornwall Land Use office. Chairman David Colbert opened the public hearing at 7:09PM. Regular members David Colbert, Jill Cutler, Peter Kalmes, James LaPorta, Stephen Saccardi and Anna Timell were seated for the public hearing.

The legal notice as published in the Waterbury Republican July 1st and July 8, 2016 (for both the proposed amendments and Special Permit #239) was read into the record.

Documents made part of the record:
- A copy of the draft amendments on file in the Land Use office and on file in the Town Clerk’s office, dated May 31st, in compliance with statutory requirements
- Copy of the May 31 correspondence to the Northwest Council of Government including draft amendments.
- Copies of draft amendment as posted of the town website.

Village subcommittee representative Anna Timell, speaking on behalf of subcommittee members James LaPorta, Jill Cutler and herself, gave an overview of the amendments being brought forth for consideration. Mrs. Timell referenced the work of the subcommittee since 2015, both on their own and in collaboration with planning being done by the Economic Development Commission through a grant opportunity with the Northwest Hills Council of Elected Officials. Mrs. Timell addressed the limits of the amendments being forth at this time, citing the tremendous issues for business people seeking to expand in West Cornwall. Mrs. Timell also addressed the non-village related amendments, including the elimination of the livable floor area in response to the need for cost efficient small homes, the changes to the accessory apartment regulations to provide more opportunities, both amendments in response to housing issues being faced in Cornwall and elsewhere.

The floor was opened to the public for comment.

Janet Carlson, chairman of the Economic Development Commission (EDC), spoke in enthusiastic favor of the proposed amendments.
Priscilla Pavel, member of the ECD and local realtor, spoke in favor of the proposed amendments, citing housing as a serious issue and the regulations being a positive step in making Cornwall a livable community.

The Commission re-addressed the amendments overall and the consideration of striking the last sentence of 5.11 relating to the timing of permitting for farmers markets due to lack of clarity. Mrs. Cutler addressed other proposed amendments being considered, amendments such as setbacks that were more complex and possibly different in both village centers and therefore requiring additional work and consultations. Motion made by Ms. Cutler, seconded by Mr. LaPorta, to close the public hearing (7:28PM); unanimously approved.

**SP#239 – Steven Madeux, applicant owner – Special Permit(s) for a Roadside Produce Stand as per Section 8.13 “Roadside Produce Stand et al” and Section 8.18 “Traditional Home Enterprise for the preparation and sales of goods produced in a garden – 17 Hollenbeck Road (Route 63)**

The entire proceedings were recorded electronically and are available in the Cornwall Land Use office. Chairman David Colbert opened the public hearing at 7:29PM. Regular members David Colbert, Jill Cutler, Peter Kalmes, James LaPorta, Stephen Saccardi and Anna Timell were seated for the public hearing.

The legal notice for the application was referenced as read during the previous hearing.

Documents made part of the record:

- A copy of the signed application
- Narrative prepared by the applicant, addressing the special permits being requested and their compliance with the general and specific standards of the application with accompanying site plan, information and correspondence and photographs.
- Certified mailings to abutting neighbors

Mr. Madeux, applicant owner addressed the Commission regarding his application, with questions and concerns discussed. There was general discussion regarding farm stands and the farm produce being limited to that grown on that property and the wording in the traditional home enterprise regulations that limited the sale of goods to those "grown or made on the premises". The consideration of revisiting the regulations to make changes that would address the concerns raised (farm stands cannot sell produce from other local farmers) with agreement that the current regulations would require Mr. Madeux to change his narrative to comply with the current limitation stated in the regulations.

The floor was opened to public for comment.

Janet Carlson, chairman of the Economic Development Commission (EDC), spoke in enthusiastic favor of Mr. Madeux’s plan for his family based proposal. Motion made by Mrs. Cutler, seconded by Mrs. Timell to close the public hearing at 7:50PM; unanimously approved.

Motion made by Mrs. Timell, seconded by Ms. Cutler, to amend the agenda to act on agenda items 4A and 4 B prior to all other business;
4. PENDING APPLICATIONS.

- Amendments to the Zoning Regulations to add language to Article 1, Section 1 – “Purpose”, to add, delete, and modify language in Section 5.11 – “Farmers Market”, to modify language in Section 9.15.2 “Parking”, to delete language in Section 5.2 “Minimum Livable Floor Area” and to modify language in Section 8.10.4.2 “Accessory Apartment”.

After discussion, 
Motion made by Mrs. Timell, seconded by Mr. LaPorta to approve the amendments to the Zoning regulations, to add language to Article 1, Section 1 – “Purpose”, to add, delete and modify language in Section 5.11 “Farmers Market with the modification from the posted amendments make no changes to 5.11 last paragraph, to modify language in Section 9.15.2 “Parking”, to delete language in Section 5.2 “Minimum Livable Floor Area” and to modify language in Section 8.10.4.2 “Accessory Apartment” with an effective date of 15 days after date of publication: unanimously approved.

Special Permit(s) for a Roadside Produce Stand as per Section 8.13 “Roadside Produce

- SP#239 – Steven Madeux, applicant owner – Stand et al” and Section 8.18 “Traditional Home Enterprise for the preparation and sales of goods produced in a garden – 17 Hollenbeck Road (Route 63).

Motion made by Ms. Cutler, seconded by Ms. Timell, to approve SP#239 as per the site plans supplied, the oral and written testimony of the applicant and the modified narrative to state that the sale of produce will be those grown on site and those prepared to be made from produce grown on site. As part of the approval, the Commission determined that the Special Exception Application complies with all the criteria of Section 8.13 “Roadside Produce Stand et al” and Section 8.18 “Traditional Home Enterprise for the preparation and sales of goods produced in a garden – 17 Hollenbeck Road (Route 63) and satisfies the General standards for all special exceptions: unanimously approved.

1. APPLICATIONS FOR ZONING PERMITS.
ZP#983- Nick Xatzis – Modifications to an existing accessory structure for studio/non-residential space – Railroad Street. Permit approved


ZP#985- 26 & 44 Kent Road LLC/Richard Kearns – Placement of temporary lumber storage and office structures at 44 Kent Road before and during reconstruction due to fire – 44 Kent Road. Griswold Nelson addressed the plans to reopen the lumber yard destroyed by fire in a limited capacity with temporary structures on the lumber yard site.

2. APPROVAL OF MINUTES. June 14 meeting regular meeting.
Motion made by Mrs. Timell, seconded by Ms. Cutler, to approve the minutes of the June 14th, 2016 meeting as presented: unanimously approved.
3. NEW APPLICATIONS: None.
4. PENDING APPLICATIONS.
5. CORRESPONDENCE AND COMMUNICATIONS RECEIVED.

6. LUA/ZONING OFFICER’S REPORT
   Griswold Nelson addressed recent conversations with 131 Kent Road property owner, David Meharg, regarding the change of use of the 131 Kent Road property for advertised concerts (copy of the Litchfield County Times made part of the record) and the lack of actual permitting in place for such an expanded use from the art gallery. It was noted that concerns regarding traffic and parking had been brought to the attention of the Land Use office as well. Griswold Nelson stated that she had brought code concerns regarding the use of the property for public assembly to be building official and fire marshal. The matter was to be re-visited.

   Griswold Nelson addressed her recent attendance at the NWHCOG’s 5th Thursday meeting in Morris, geared towards agricultural trends and issues in the Northwest Hills. Information distributed at the meeting was made part of the record and available to all Commission members.

7. OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION.

8. PLANNING WORKSHOP to include but not limited to discussion of the Zoning and or subdivision regulations in compliance with the recommendations in the Town Plan of C&D, report from the Village Center subcommittee, short term rentals and other zoning/subdivision regulatory matters.

   Prior to commission discussion, the floor was opened to the Janet Carlson, EDC chair regarding EDC. Ms. Carson addressed recent conversations with West Cornwall property owner James McLaughlin (6 and 11 Railroad Street LLC) regarding the re-opening of the 6 Railroad Street property, conversations with Trinity Conference Center property managers regarding the re-opening of the site for use as a conference center, the work of the West Cornwall Water/Septic study group and discussion of expanded use of the Hughs Library and surrounding property as part of the Bend Project.

   Discussion regarding “Draft motion prepared by Tom McGowan, dated June 9th” and made part of the record of the June 12 meeting was re-opened. After discussion with all commission members, staff, regarding matters concerning legality, enforcement, current changes in state law for taxation of rental properties and other associated matters Motion made by Mrs. Timell, seconded Mrs. Cutler, whereas, widespread concern has been raised within the community regarding whether or not, and to what extent, short term rental of residential homes or rooms in homes should be regulated, and

---The Planning and Zoning Commission has spent considerable time and expense developing an understanding of this issue and in drafting optional zoning regulatory approaches, and

---The Commission to date has not been able to arrive at a consensus on the specifics of a proposed zoning regulation, and

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The Commission has learned that Connecticut communities that have adopted zoning regulations for short term rentals have used a wide range of zoning approaches, and most of these are in Connecticut cities, such as New London, and more populated suburban towns, such as Ridgefield, and

We could find no small town in Connecticut that is regulating short term rents through zoning. A primary reason is the concern, for both small towns and many suburban towns, is they do not have the budgetary and staff resources to monitor and enforce this type of zoning regulation, especially as the number of short term rentals are growing rapidly, and

Some small towns have made a finding and determined that such short term rentals shall not be subject to zoning regulation (Norfolk) and at least one other small town, Sherman, has taken an alternative approach - allowing guest dwellings as Special Permit use as the means of permitting short term rentals, and

The Commission is also aware that the Connecticut Lodging Association, a business group representing the interests of hotels, motels and bed and breakfasts, is lobbying the Connecticut legislature to require applying the same taxing and licensing requirements that apply to its members face to short term rental unit owners, such as those sponsored by Air BnB, and

The Commission’s attorney, who has communicated with the Connecticut Lodging Association, suggests it is possible the legislature will require short term rental home owners to adhere to a licensing scheme requiring they obtain a State certificate and a license fee before he/she can rent out a home and/or a room in the home. He also noted the State may address this issue in the near future.

The attorney also stated short term rentals are also “an issue that the town [Board of Selectmen] could address by town ordinance”.

Now Therefore Be It Resolved in consideration of the above the Commission has determined it is prudent at this time to table the matter of proposing a set of amendments zoning regulation governing short term rentals to:

Await the results of possible State legislative regulatory action, especially as it may impact the regulation of short term rentals by Planning and Zoning Commissions, and

Continue to gather information on the best zoning or other regulatory approach for Cornwall, and

Determine the associated monitoring and enforcement costs to the Planning and Zoning Commission and the Town to regulate short term rental uses and that the Town will provide for such necessary budget and staff requirements. Motion unanimously approved.

9. ADJOURNMENT.

**Motion** made by Mrs. Timell, seconded by Mr. Saccardi to adjourn at 8:55PM; unanimously approved.

Respectfully submitted,

Karen Griswold Nelson