



# TOWN OF ELLINGTON

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## PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTES MONDAY, JULY 27, 2020, 7:00 PM ZOOM MEETING

**MEMBERS PRESENT:** CHAIRMAN ARLO HOFFMAN, VICE CHAIRMAN BILL HOGAN,  
REGULAR MEMBERS SEAN KELLY, ROBERT SANDBERG, JR.,  
RICCI HIRTH, F. MICHAEL FRANCIS AND MICHAEL SWANSON, AND  
ALTERNATES KEITH DURAO AND JON MOSER

**MEMBERS ABSENT:** NONE

**STAFF PRESENT:** LISA HOULIHAN, TOWN PLANNER AND BARBRA GALOVICH,  
RECORDING CLERK

**I. CALL TO ORDER:** Chairman Hoffman called the meeting to order at 7:03 PM.

Lisa Houlihan, Town Planner, explained general procedures for how the meeting will be conducted.

**II. PUBLIC COMMENTS** (On non-agenda items): **None**

**III. PUBLIC HEARING(S):**

1. S202003 – Hastillo Properties, LLC, owner/ TYMAC Holdings, LLC, applicant, request for a re-subdivision for seventeen (17) lots for 61.56 acres on west side of Tripp Road, APN 023-001-0000, in a RAR (Rural Agricultural/Residential), Zone and request to waive Section 4.06(iii) to allow permanent cul-de-sac of 1,350', Section 4.07 to allow 24' street width, and Appendix C 3.13(a) to allow HDPE pipe. (**Discussion to be tabled. Request to continue to 8/24/2020 is present.**)
2. Z202005 – Hastillo Properties, LLC, owner/ TYMAC Holdings, LLC, applicant, request for a Special Permit pursuant to Section 7.9 – Rear Lot Requirements for two rear lots to construct single family homes associated with a seventeen (17) lot resubdivision of 61.56 acres on west side of Tripp Road, APN 023-001-0000, in a RAR (Rural Agricultural/Residential) Zone. (**Discussion to be tabled. Request to continue to 8/24/2020 is present.**)

**Time:** 7:05 pm

**Seated:** Hoffman, Hogan, Kelly, Sandberg, Hirth, Francis, Swanson, and Durao

Chairman Hoffman stated the commission received a letter dated July 15, 2020, from the applicant's representative requesting applications S202003 and Z202005 be tabled to the next meeting.

**MOVED (KELLY) SECONDED (SWANSON) AND PASSED UNANIMOUSLY TO TABLE DISCUSSION AND CONTINUE PUBLIC HEARINGS TO THE NEXT REGULAR MEETING ON AUGUST 24, 2020, 7PM, VIA ZOOM OR PHYSICAL LOCATION AT 57 MAIN STREET, ELLINGTON, CT, WHICHEVER IS APPLICABLE AND IN ACCORDANCE WITH STATE EXECUTIVE ORDERS AND LOCAL RECOMMENDATIONS RELATING TO COVID-19 FOR S202003 – Hastillo Properties, LLC, owner/ TYMAC Holdings, LLC, applicant, request for a re-subdivision for seventeen (17) lots for 61.56 acres on west side of Tripp Road, APN 023-001-0000, in a RAR Zone (Rural Agricultural/Residential), and request to waive Section 4.06(iii) to allow**

permanent cul-de-sac of 1,350', Section 4.07 to allow 24' street width, and Appendix C 3.13(a) to allow HDPE pipe, and **Z202005** for a Special Permit pursuant to Section 7.9 – Rear Lot Requirements for two rear lots to construct single family homes associated with the seventeen (17) lot re-subdivision (S202003).

3. Z202008 – MJS Leasing LLC & Chilson Realty Co. owners/ Town of Vernon & Town of Ellington applicants, request for Site Plan Approval for the construction of four full-size soccer fields, parking and access roads, concession and restroom buildings, and associated site improvements on properties along the east side of Windermere Avenue near the Vernon town line, at APNs 011-033-0000, 019-005-0004 and 019-005-0005. (**Hearing continued from 6/22/2020**)

**TIME:** 7:06 pm

**SEATED:** Hoffman, Hogan, Kelly, Sandberg, Hirth, Francis, and Durao

Commissioner Swanson recused himself from the application.

David Smith, Town of Vernon Professional Engineer, and Shaun Gately, Town of Vernon Economic Development Director, were present to represent the application.

Lisa Houlihan, Town Planner, stated prerequisite approvals and advisory reviews are present, including an Inland Wetland Agency (IWA) approval and favorable report from the Design Review Board (DRB) recommending building design with white trim and shingled roof. She explained that Mr. Smith sent letters to abutters (dated June 24, 2020) asking their preference for landscaping between the rear of their property and the subject site. Three alternatives were suggested: a combination of dogwood and flowering crabapple trees like shown on the proposed plans, fencing, or evergreens. There are 11 parcels in Ellington that abut the site and 6 written responses were received:

- 4 neighbors prefer 6' PVC fencing, 2 specified a natural brown color;
- 1 neighbor chose dogwood and flowering crabapple plantings;
- 1 abutter requested evergreens;

Ms. Houlihan indicated that another neighbor responded by phone, Janice Messino of 48 Windermere Avenue, and she prefers dogwood and crabapple plantings. Mr. Smith indicated that Vernon will meet individual preferences. Fencing and evergreens will be installed on private properties and become the homeowner's responsibility. The commission should discuss what buffer treatment should be installed along the rear of properties for residents that did not provide comment.

Ms. Houlihan noted the site will be served by public water and there are 3 parcels under consideration. Parcel 019-005-0004, will be conveyed to the Town of Ellington to meet a condition of approval set when the land was subdivided. Parcel 019-005-0005, is within the Hockanum Sewer Service area, however no sewer flow has been allocated to it. And, parcel 011-033-0000, is outside of the sewer service area. The Water Pollution Control Authority (WPCA) Administrator recommends the site be served by onsite septic. Test pits were conducted with North Central District Health Department (NCDHD) and soils found suitable for onsite treatment. Installation of a septic system is subject to formal approval. The WPCA Administrator recommends the applicant meet with the WPCA prior to work within Phase II.

Since the last meeting, two sets of revised plans have been submitted: one dated July 7, 2020 and the second on July 22, 2020. Staff met with Vernon representatives last Friday to review the latest plan revisions and a report from Dana Steele, Ellington Town Engineer, dated July 24, 2020, is present. Ms. Houlihan read Mr. Steele's report (attached).

At the last meeting, members agreed the recreational facility will attract kids from surrounding neighborhoods and suggested sidewalks be extended along Windermere Avenue to the south to connect to existing walks in Vernon. Part of the plan revisions include concrete sidewalks along the front of the subject site and two crosswalks. Approval cannot be conditioned upon requiring installation of offsite improvements, however local officials from both towns agree that opportunities to install walks along Windermere Avenue to connect to existing walks in Vernon should be investigated and constructed.

Mr. Smith reviewed the changes that were made to the plans, such as the concrete sidewalks and changes to the drainage facilities. He explained that Field 3 is more within the Flood Zone, but the proposed bathroom and storage building is not. He noted as part of the Inland Wetlands' approval a wetland seed mix will be planted in the area closest to the wetlands. The area will be mowed once a year to prevent invasive species and will be posted with wetland placards. Mr. Smith noted abutters will have the option of additional buffering that will be located on their property and will become their responsibility to maintain.

Chairman Hoffman inquired about the proposed standalone sidewalk. Mr. Smith explained they can only install it along the property of discussion. He noted the requested guardrails along Windermere Avenue will be wooden and resemble the fencing at Pinney Street Park. Chairman Hoffman asked about the road base within the site. Mr. Smith stated the first 100' of entry will be asphalt and after that will be millings. They will paint one arrow into the site as well as one right and one left turn lane arrow for exiting the parcel. Mr. Smith explained funding available from Capitol Region Council of Government for local sidewalk projects and stated he'd provide a letter of support and engineering guidance to assist Ellington with a future project to extend sidewalks.

Vice-Chairman Hogan asked for clarification pertaining to the pesticides results. Mr. Gately explained the Town of Vernon hired GZA Geo Environmental, Inc. to test the soils as part of their due diligence. He noted the results were below the most stringent requirements for remediation within the site. Commissioner Hirth asked why the results were not part of the application. Mr. Gately explained they do not feel they have the authority to provide them since they do not own the property.

The commission discussed the buffering between the neighbors and the fields. It was determined the proposed trees shown on the plan will be installed as well as additional buffers requested by the neighbors. Mr. Smith noted Vernon will continue to work with the abutters and finalize decisions in conjunction with the completion of construction of the adjacent field.

Commissioner Sandberg suggested that a berm with plantings be installed versus what's shown on the plans. Mr. Smith explained topography changes that will make a berm ineffective and explained that some neighbors do not want to be cut off from direct access to the site. Commissioner Sandberg requested the guardrail details be changed to match the exact type on Pinney Street Fields, and Mr. Smith agreed to change the plans.

Commissioner Hirth asked what type of fertilizers will be used. Mr. Smith explained that Vernon's and Ellington's current practices are under review and the more stringent practice will be used.

Commissioner Francis asked if there will be any type of documentation between the towns pertaining to use of the fields. Louis Spadaccini, Blackwell & Spadaccini, LLC, 158 East Center Street, Manchester, Vernon's Town Attorney, stated there is a draft agreement currently being worked on between Ellington and Vernon.

Alternate Durao asked if the results of the soil testing could be forwarded to the Town of Ellington's Planning Department to be added to the application file.

Janice Messino, 48 Windermere Avenue, Ellington, asked if the standalone sidewalks would be installed in front of her house. Mr. Smith stated the sidewalks would not be along her property, but along the front of the proposed park. Ms. Messino noted that she loves how the two towns are planning out this project.

Sarah Poulin, 8 Angel Trace, Ellington, stated she is in favor of the application and happy to see more proposed fields in the area.

Maryann Levesque, 183 Bolton Road, Vernon, said she is on the Vernon Town Council and was not aware of any draft agreement between the two towns and expressed concerns pertaining to security.

Ms. Houlihan reviewed possible conditions of approval, after discussion, two additional conditions were added.

**MOVED (HOGAN) SECONDED (FRANCIS) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR Z202008** – MJS Leasing LLC & Chilson Realty Co. owners/ Town of Vernon & Town of Ellington applicants, request for Site Plan Approval for the construction of four full-size soccer fields, parking and access roads, concession and restroom buildings, and associated site improvements on properties along the east side of Windermere Avenue near the Vernon town line, at APNs 011-033-0000, 019-005-0004 and 019-005-0005.

**MOVE (HOGAN) SECONDED (FRANCIS) AND PASSED (HIRTH – NAY) TO APPROVE WITH CONDITIONS Z202008** – MJS Leasing LLC & Chilson Realty Co. owners/ Town of Vernon & Town of Ellington applicants, request for Site Plan Approval for the construction of four full-size soccer fields, parking and access roads, concession and restroom buildings, and associated site improvements on properties along the east side of Windermere Avenue near the Vernon town line, at APNs 011-033-0000, 019-005-0004 and 019-005-0005.

**SUGGESTED/POSSIBLE CONDITIONS:**

- Building design for concession/storage/bathroom facilities shall be consistent with proposed design with white trim and asphalt shingled roof;
- Onsite sewage disposal system is subject to approval from North Central District Health Department;
- Approval needed from the Water Pollution Control Authority prior to phase II activity;
- Approval needed from the Department of Public Works for work within the right-of-way;
- Exterior lighting shall be limited to wall-packs affixed to concession/storage/bathroom facilities. Fixtures shall be Dark Sky compliant, fully shielded and downward directed;
- The park shall not operate after sunset;
- Detached sign shall comply with the Ellington Zoning Regulations and subject to issuance of a Zoning Permit;
- Parcels shall be merged prior to construction activity;
- Approval needed from the Town Engineer pursuant to comments dated July 24, 2020;
- Professional staff may make minor modifications to parking and road layout;
- Install dogwood and crabapple trees as shown on plan, and install additional buffers as requested by neighbors.

**IV. OLD BUSINESS: None**

## V. NEW BUSINESS:

1. Pursuant to a letter from Attorney Bruce Fader dated July 20, 2020, request for informal discussion to determine if an existing barn with an unpermitted apartment is eligible for Special Permit for dormitory for farm help accessory to an agricultural operation (Section 3.1.1.6) for property at 156 Crystal Lake Road, Joseph & Mary Hollay, owners, and 154 Crystal Lake Road, Heather Hollay-Farr and Christopher Farr, owners, in a Rural Agricultural Residential (RAR) Zone.

Attorney Bruce Fader, Jacobs, Walker, Rice & Barry, LLC, 146 Main Street, Manchester, CT, was present to discuss 154 and 156 Crystal Lake Road with the commission. He explained there is an existing barn with an unpermitted apartment located at 156 Crystal Lake Road, which is in conjunction with 154 Crystal Lake Road that operates a horseback riding facility. He stated that NCDHD approved the septic system for an apartment over the barn. Attorney Fader said the property is in a Rural Agricultural Residential Zone and the owners would like to utilize the space above the barn under dormitory use for agriculture. The barn is located on 154 Crystal Lake Road, and an indoor riding arena is on the adjacent property which is owned by the Hollay's daughter.

Ms. Houlihan explained discussion with Attorney Fader about Section 7.1 Accessory Apartment and Section 3.1.1.6 for farm dormitories. Accessory apartments require primary and accessory units to be attached and appear as a single family structure, and Section 3.1.1.6 contemplates "dormitories for farm help accessory to an agricultural operation in Ellington". She explained official records were reviewed to locate past approvals for agricultural dormitories, but no past examples could be found. The regulations lack a definition for dormitories and therefore Merriam-Webster dictionary was referred to. A dormitory is more like a bunch of bedrooms with communal kitchen and bathroom facilities. The illegal dwelling aligns more like a second story single family home. She suggested the owners pursue a lot-line adjustment so the two dwellings are on their own parcels.

Commissioner Kelly stated NCDHD recommends a significant upgrade to the septic system to accommodate the dormitory apartment, which is already connected to the original septic system. He asked if the dormitory use is unsafe noting its close proximity to wetlands. He asked if the space above the barn was currently occupied and who would occupy the space. Attorney Fader stated the dormitory is not currently being used. Mr. Fader stated it was originally going to be used nine months of the year for hired help, but due to Covid-19 they would use it themselves. Commissioner Kelly noted the agricultural use will continue without the dormitory. Attorney Fader said the dormitory provides housing for help or themselves.

Vice Chairman Hogan expressed disappointment the apartment was built without permits. He does not support NCDHD allowing the system to be used as is and feels the system should be required to be upgraded now to meet code, not when there's a system failure.

Chairman Hoffman said years ago tobacco workers had seasonal dormitories along Abbott Road. He explained the dorms were deconstructed due to concern about possible conversion into apartments and expressed concern for setting the wrong precedent. Attorney Fader explained that the Special Permit process allows the commission to set limits only allowing it to be used in conjunction with the horse farm and if the farm becomes inoperable the dorm could no longer be used.

Commissioner Francis stated the unpermitted construction only has one bedroom and is not a dormitory, it's an apartment and is bigger than some single family homes. He questioned why permits weren't pulled and noted the owners have not paid taxes on improvements for years.

Commissioners Hirth, Swanson, Sandberg and Alternates Durao and Moser all stated their concerns and agreed with Commissioner Francis.

Chairman Hoffman explained a tax exemption available for farm buildings, noting application for exemption requires an owner to provide a sworn statement that the property is used 100% for agriculture. He suggested the properties be merged.

Attorney Fader said the horse riding facility is an agricultural use, and thought the owners could come up with a lease agreement rather than merging the lots. He will consult with his clients on steps they would like to take pertaining to the matter.

No motions or decisions were made.

## **VI. ADMINISTRATIVE BUSINESS:**

1. Approval of June 22, 2020 Regular Meeting Minutes

**MOVED (FRANCIS) SECONDED (SWANSON) AND PASSED UNANIMOUSLY TO APPROVE JUNE 22, 2020 REGULAR MEETING MINUTES.**

Commissioner Sandberg asked to discuss when the commission would hold elections. Chairman Hoffman said the item could be added to the agenda. After round table discussion, the commission decided to continue with the nominations and suggested election by ballot at the next regularly scheduled meeting on Monday, August 24, 2020. Commissioner Sandberg informed the group he will be absent from the next meeting. Alternate Moser suggested Commissioner Sandberg be allowed to cast absentee ballot.

2. Nominations of Chairman, Vice-chairman and Secretary Positions

### **a. Chairman Position**

**MOVED (KELLY) SECONDED (SANDBERG) TO NOMINATE COMMISSIONER (HOFFMAN) FOR CHAIRMAN OF THE PLANNING & ZONING COMMISSION FOR THE YEAR OF 2020.**

**COMMISSIONER (HOFFMAN) ACCEPTED THE NOMINATION.**

**No more nominations were made, commission to vote at next PZC meeting.**

### **b. Vice-Chairman Position**

**MOVED (FRANCIS) SECONDED (HOGAN) TO NOMINATE COMMISSIONER (HOGAN) FOR VICE-CHAIRMAN OF THE PLANNING & ZONING COMMISSION FOR THE YEAR OF 2020.**

**COMMISSIONER (HOGAN) ACCEPTED THE NOMINATION.**

**MOVED (SANDBERG) SECONDED (SWANSON) TO NOMINATE COMMISSIONER (KELLY) FOR VICE-CHAIRMAN OF THE PLANNING & ZONING COMMISSION FOR THE YEAR OF 2020.**

**COMMISSIONER (KELLY) ACCEPTED THE NOMINATION.**

**No more nominations were made, commission to vote at next PZC meeting.**

### **c. Secretary Position**

**MOVED (KELLY) SECONDED (FRANCIS) TO NOMINATE COMMISSIONER (SANDBERG) FOR SECRETARY OF THE PLANNING & ZONING COMMISSION FOR THE YEAR OF 2020.**

**COMMISSIONER (SANDBERG) ACCEPTED THE NOMINATION.**

**No more nominations were made, commission to vote at next PZC meeting.**

3. Correspondence:

Chairman Hoffman noted recent events in Town, and suggest commissioners review the Code of Ethics and personnel rules. As commissioners they are representatives of the town and should be mindful when using social media and should exercise respectful behavior.

**VII. ADJOURNMENT:**

**MOVED (FRANCIS) SECONDED (SWANSON) AND PASSED UNANIMOUSLY TO ADJOURN THE PLANNING & ZONING COMMISSION REGULAR MEETING AT 9:23 PM.**

Respectfully submitted,

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Barbra Galovich, Recording Clerk