



**TOWN OF KILLINGLY, CT
PLANNING AND ZONING COMMISSION**

Monday, July 20, 2015
Regular Meeting
7:00 PM

Town Meeting Room, Second Floor
Killingly Town Hall
172 Main St., Killingly

MINUTES

I. CALL TO ORDER – Chair, Keith Thurlow, called the meeting to order at 7:00 pm.

ROLL CALL – Brian Card, Todd Nelson, Sheila Roddy, William Ritter, Keith Thurlow.

Milburn Stone arrived at 7:02 p.m.

Staff Present – Karen Clark, Zoning Enforcement Officer, Planning Assistant; Eric Rumsey, Planner 1, Wetlands Agent; Elsie Bisset, Economic Development Director.

Also Present - Joyce Ricci, Town Council Liaison.

II. SEATING OF ALTERNATES - William Ritter was appointed by Chair Keith Thurlow to be a voting Member this evening, but then Milburn Stone arrived moments later and Mr. Ritter was returned to Alternate status.

Chair, Keith Thurlow, asked for a moment of silence in honor and remembrance of Linda Walden, Director of Planning and Development, who passed suddenly on July 19th.

III. AGENDA ADDENDUM – None.

IV. MEETING CONDUCT AND ORIENTATION – Read by Karen Clark.

V. CITIZENS' COMMENTS ON ITEMS NOT SUBJECT TO PUBLIC HEARING (Individual presentations not to exceed 3 minutes; limited to an aggregate of 21 minutes unless otherwise indicated by a majority vote of the Commission)

Sean Hendricks, Town Manager, explained that he and P&Z Chair, Keith Thurlow, had discussed whether to cancel tonight's meeting due to the recent passing of Linda Walden, Director of Planning and Development, and decided that the P&Z Commission should convene to maintain legal and Town Government obligations. He stated that he will assume the responsibilities of the interim Department Head with Karen Clark and Eric Rumsey handling Planning and Zoning issues. He assured that issues falling under the jurisdiction of the Planning and Development Department will be taken care of in a timely manner. He spoke of Linda Walden's hard work, dedication, and efforts such as the Agricultural Commission, Mother Nature's Garden, and the Community Garden that might not be if not for her. He said that she is not someone who can be replaced, but the Town will do its best to carry on and put into motion the work that she has started.

John Sarantopoulos, 37 Tunk City Road, stated that he would like to participate in the discussion for Agenda Item:

IX. NEW BUSINESS

E. Other

2. "Livestock Management Plan" clarification – request also to Killingly Agriculture Commission for their August meeting – from ZEO/Planning Assistant Karen Clark

Keith Thurlow assured Mr. Sarantopoulos that the Commission would accommodate the request.

VI. COMMISSION/STAFF RESPONSES TO CITIZENS' COMMENTS

VII. PUBLIC HEARINGS

A. Zone Change Applications

1. Killingly Planning and Zoning Commission initiated Zone (Text) Change Application #15 – 1103 to add the definition Accessory Dwelling Unit to Section 310, delete the existing Section 410.1.2 q and add new Section 410.1.2q, add new Section 410.2.2o, add new Section 566 - Accessory Dwelling Unit and add Section 530.1.1e – Parking, for the purpose of allowing accessory dwelling units as a Special Permitted use in the Rural Development and Low Density zones

Karen Clark read the proposed language:

To Section 310 – Definitions, add:

Accessory Dwelling Unit: a residence that is located on the same lot, and under the same ownership as a single family dwelling. It is intended for use as a complete, independent living facility.

Delete the existing Rural Development Special Permit Use Section 410.1.2q:

~~q. Construction of a Second Dwelling Unit, provided:~~

- ~~• the subject property contains a foundation of record which both is pre-existing to the establishment of zoning and conforming to current zoning setbacks and dimensional requirements as set forth in section 450 and Table A~~
- ~~• The pre-existing foundation must be structurally evaluated and approved by an independent, licensed structural engineer prior to applying for a special permit application. A letter signed, sealed and certified is required by the town.~~
- ~~• The structure being used to house the second dwelling unit may already exist on the above mentioned pre-existing foundation, or one (1) new structure can be built on the pre-existing foundation, not exceeding the footprint of the pre-existing foundation~~
- ~~• One (1) single family dwelling unit is permitted on the pre-existing foundation and any future additions to the structure may not increase living area~~
- ~~• The lot in its totality shall not contain more than two (2) dwelling units~~
- ~~• All State of Connecticut Health Code and Northeast District Department of Health regulations must be met.~~

Add new Section 410.1.2q as a Rural Development District Special Permit Use:

- q. Accessory Dwelling Unit in accordance with Section 566

Add new Section 410.2.2o as a Low Density District Special Permit Use:

- o. Accessory Dwelling Unit in accordance with Section 566

Add new Section 566:

Accessory Dwelling Unit

Section 566.1 – Intent

It is the intent of this Accessory Dwelling Unit (ADU) section to:

- a. Provide flexibility in housing options in response to the changing needs of families;
- b. Create new housing units while respecting and maintaining the appearance and scale of single-family development;
- c. Provide housing that responds to smaller household size and increasing housing costs;
- d. Provide opportunities for a younger generation to live independently; and
- e. Provide an older generation with a means of obtaining rental income, security, companionship, and/or services, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise need to leave.

Section 566.2 An Accessory Dwelling Unit may be permitted in the Low Density and Rural Development districts only after the securing of a Special Permit as specified in Article VII.

Section 566.3 An Accessory Dwelling Unit shall meet the following standards and requirements:

- a. Only one accessory dwelling unit shall be permitted for each lot;
- b. All setback requirements for the zone in which the accessory dwelling unit is located shall apply;
- c. No accessory dwelling unit shall be approved if accessory to a two-family dwelling or any multi-family use;
- d. The accessory dwelling unit must be located within 150 feet of the primary residence or be the conversion of an existing detached structure (e.g. garage) which is not currently a dwelling unit;
- e. The accessory dwelling unit is subject to all the applicable health, fire and building codes as the primary structure;
- f. Mobile homes or recreational vehicles shall not be used as an accessory dwelling unit;
- g. The lot on which the accessory structure is to be located shall conform to the minimum lot area requirement for the zone in which the property is located;
- h. The owner of the property must reside in either the primary residence or the accessory dwelling unit;
- i. The accessory dwelling unit shall:
 - i. not exceed 1,000 square feet in maximum gross floor area;
 - ii. contain no more than one (1) bedroom;
 - iii. be designed to preserve and maintain the single-family residential appearance of the subject lot and be consistent with the single-family character of the neighborhood;
- j. Access from the public right-of-way shall serve both the principal and accessory units; no additional curb cuts shall be created to serve an accessory dwelling unit;
- k. Parking will be in compliance with Section 530 Off Street Parking and Loading standards.

To Section 530 Off Street Parking and Loading, to Section 530.1.1 Dwellings, add:

- e. Accessory Dwelling Unit: Two (2) spaces per unit.

Sheila Roddy asked if Section 566.3f regarding mobile homes sufficiently covers non-permanent structures. Karen Clark stated that 566.e states that it is subject to all the applicable health, fire and building codes.

Keith Thurlow asked (regarding 566.g) if a lot is below the minimum lot area requirement, but has a two-car garage, would they not be allowed to convert the garage. Karen Clark stated that if the lot is non-conforming, they would not be able to convert the garage.

John Sarantopoulos, 37 Tunk City Road, spoke in opposition. He asked if there are requirements now that allow a conversion if there is a common wall (such as an attached garage). Eric Rumsey stated that what is permitted currently in the Low Density and the Rural Development districts is a two-family dwelling, so the conversion of a garage with a common wall into a second dwelling unit would suffice as converting it from a single-family to a two-family dwelling.

Mr. Sarantopoulos asked if there is already a provision allowing duplexes in virtually all zoned areas. Karen Clark and Eric Rumsey stated that is correct. Mr. Sarantopoulos asked if there are any other restrictions other than the common wall for conversion at this time. Eric Rumsey stated that they are allowed by right vs. special permit. Mr. Sarantopoulos asked for a copy of Attorney St. Onges comments regarding this subject.

Mr. Sarantopoulos read from a prepared statement in which he stated his position on the issue, "Substantially altering standards of existing regulations for various zone districts violates the intent of Planning & Zoning..." He read from Section 120 – Intent. He referred to the Plan of Conservation and Development. He stated that this would convert the whole community into a high density area. He read from Section 310 of the Regulations (regarding accessory dwelling units), "No use shall be permitted as accessory in a residential zone." He stated concern for units becoming rentals. He read from Section 401 Residential Rural Development District.

Mr. Sarantopoulos stated that if there is a problem with an existing wall, that could be changed to satisfy the one individual who has come forward forcing this on the community.

Mr. Sarantopoulos read Section 410.1.2q (proposed to be deleted and replaced).

Adam Griffiths, 98 Griffiths Road, asked how this would change the property value. He stated that there are some unlawful instances in Town and asked how many there are and if they can be assessed to increase the tax base of Killingly. Eric Rumsey stated that two lawful dwellings on one property may increase the taxes on that property and that illegal dwellings are not being taxed as dwelling units at this time. Sheila Roddy asked if there is any knowledge of how many illegal dwellings there are. Karen Clark stated that when she finds out about them, they are investigated and are dealt with appropriately. She said that there were two that were remedied, but what she does not know about, she cannot investigate and remedy.

Mr. Griffiths stated that, presumably, the intent is to remedy situations that have already arisen and makes sense as long as it is controlled and strictly monitored.

Ann Dauphinais, 204 Wright Road, stated that she disagrees with Mr. Sarantopoulos and spoke in favor.

Bob Misiaszek, 90 Cutler Road, addressed in-law apartments above a garage. He stated that GFA (gross floor area) uses exterior dimensions and that net living area should be used instead. He suggested that if someone has a legal garage with a primary use as a garage, they should be allowed to convert the upstairs to living space using the net square foot formula (net square footage of the garage must be larger than the apartment upstairs).

Mr. Misiaszek stated that limiting to one bedroom is just an attempt to limit the number of people in the apartment and said that this not done for any other housing unit in Town. He gave examples of why one bedroom wouldn't work.

Mr. Misiaszek stated that he feels that this proposal would not allow for anything that is not already being done and that we should keep families together and help them out.

John Sarantopoulos stated that once the door is opened there will be a flood of people wanting to put up stand-alone units and he does not feel this will serve the community well. He referred to Sections 8-25 and 8-26 of the Connecticut General Statutes and said that not wanting to subdivide is not a reason for being allowed to put up a second residence on a property. He agreed that there is a need today, but believes there are adequate provisions within the Regulations that can accommodate those situations without having a second residence built on a property that is zoned for one.

Bob Misiaszek stated that the Commission could require the lot size be larger.

John Sarantopoulos stated that there is already a provision for that – setbacks.

Karen Clark strongly encouraged anyone who knows of an illegal unit to inform her of it so that she can investigate it.

Brian Card responded to Mr. Sarantopoulos' comments and stated the Regulations should adapt to the times and the changing patterns of economics and residential growth. He read from the Plan of Conservation and Development. He stated that they are trying to be innovative and allow uses of properties that are not currently allowed. He explained that this is slight modification to the common-wall duplex. (A small living quarters somewhere adjacent to an existing, single-family housing development.) He feels it is appropriate to modify the Regulations to allow the Town to continue to grow and not become stifled and stagnant.

Milburn Stone stated that an advantage of adopting is that it eliminates the old Section q and makes it more rational.

Todd Nelson stated that he feels this change reflects the changing dynamics of the community as more people want to keep their elderly family members close. He feels it would also add to the economic development of the community.

Keith Thurlow stated that he agrees with Mr. Misiaszek on the need for a minimum of two bedrooms.

Sheila Roddy agreed, but stated that she also agrees with Mr. Sarantopoulos about maintaining the rural character of the area. She asked about the gross floor area (GFA) vs. net square footage. Karen Clark gave an explanation and noted that the Commission cannot make substantial changes to the language as it exists on the application.

Todd Joyal, 943 North Main Street, asked if some of these issues (such as a breezeway situation to be negated to be built on an existing structure or a situation where the topography of the land to allow for wheelchair access) could be addressed by allowing the variance process or the language within the special permit request.

Bob Misiaszek stated that another reason to use the net square footage instead of GFA is that many times there would be a need for wheelchair/scooter accessibility. He stated that with GFA you end up with only about 840 s.f. instead of 1,000 s.f.

Adam Griffiths stated that adding a second bedroom you allow a great number of possibilities.

Bob Misiaszek stated that the Town will get the tax money.

John Sarantopoulos stated that the solution is to allow conversions and make the necessary adjustments to the language we already have.

Motion by Todd Nelson to close the public hearing for Killingly Planning and Zoning Commission initiated Zone (Text) Change Application #15 – 1103 to add the definition Accessory Dwelling Unit to Section 310, delete the existing Section 410.1.2 q and add new Section 410.1.2q, add new Section 410.2.2o, add new Section 566 - Accessory Dwelling Unit and add Section 530.1.1e – Parking, for the purpose of allowing accessory dwelling units as a Special Permitted use in the Rural Development and Low Density zones. Second by Sheila Roddy. Motion carried unanimously.

- B. Special Permits** - none
- C. Site Plan Reviews** - none
- D. Subdivisions** - none
- E. Other** – none

VIII. UNFINISHED BUSINESS

A. Zone Change Applications

1. Killingly Planning and Zoning Commission initiated Zone (Text) Change Application #15 – 1103 to add the definition Accessory Dwelling Unit to Section 310, delete the existing Section 410.1.2 q and add new Section 410.1.2q, add new Section 410.2.2o, add new Section 566 - Accessory Dwelling Unit and add Section 530.1.1e – Parking, for the purpose of allowing accessory dwelling units as a Special Permitted use in the Rural Development and Low Density zones

Motion by Brian Card to approve Killingly Planning and Zoning Commission initiated Zone (Text) Change Application #15 – 1103 to add the definition Accessory Dwelling Unit to Section 310, delete the existing Section 410.1.2 q and add new Section 410.1.2q, add new Section 410.2.2o, add new Section 566 - Accessory Dwelling Unit and add Section 530.1.1e – Parking, for the purpose of allowing accessory dwelling units as a Special Permitted use in the Rural Development and Low Density zones with an effective date of Wednesday, August 12, 2015, at 12:01 a.m., for the following reasons:

- Promotes the smart growth concept of the Plan of Conservation and Development which allows for the Planning & Zoning Commission to modify the regulations to stimulate growth.
- Provides economic development by keeping younger people in Town.
- Promotes livability of neighborhoods.

Second by Todd Nelson.

Discussion ensued:

Todd Nelson suggested:

- Change from one bedroom to two; and
- Use net living area rather than maximum gross floor area to measure the useable space.

Brian Card stated that both would be substantial changes to what was public noticed. He feels that 1,000 s.f. promotes a small unit to be next to an existing structure. He stated that there are other mechanisms for people who want/need a bigger unit. Living area square footage could promote a very large unit that is mostly garage with very small living quarters.

Discussion ensued.

Roll Call Vote: Brian Card – yes; Todd Nelson – yes; Sheila Roddy – yes; Milburn Stone – yes; Keith Thurlow – yes.
Motion carried 5-0.

- B. Special Permits** – none
- C. Site Plan Reviews** - none
- D. Subdivisions** – none

E. Other

1. Mixed Mill Use Development District Proposed Amendments – Review of the draft April 20, 2015 updates and scheduling of further action - review/discussion/action

Keith Thurlow stated that the biggest question lingering was with the bonding (subdivision bonding requirements). Karen Clark answered that Linda Walden had sent a note stating that Town Attorney, William St. Onge had previously suggested following the bonding procedures for subdivision if acceptable to the Commission.

Keith Thurlow stated that the other questions was regarding densities. Eric Rumsey explained that the purpose of the build-out was to maximize to show what could possibly happen on these lots based on the densities of the draft regulations. Discussion ensued regarding applying PRD Regulations to the residential sections of the MMUDD.

There was discussion regarding height.

Keith Thurlow explained and asked if there was a consensus on: Abutting zones would be the controlling factor in a residential situation and, if there are two, it would be the maximum density allowed. Utilizing PRD. There was a consensus.

Keith Thurlow asked if there was a reason why the bonding requirements for the subdivision regulations should not be used. Eric Rumsey stated that he feels this would be the best way to handle it unless the Town Attorney gives a different opinion.

There was a consensus (6) to submit to the Town Attorney for comments, then any concerns could be addressed before scheduling a public hearing.

Brian Card commented on the draft:

- Page 9 d. Lighting – Add a section for residential lighting. Some of these provisions may be waived by the Commission for residential lighting.
- Page 12 4 - The first two sentences seem to contradict each other.
Eric Rumsey suggested: The maximum building height for any existing structure.
- Page 17 For language consistency: Use the “f” language for “e” also. And substitute stagger for overlap - “...where peak demands will stagger...”
- Page 24 Beginning on this page, the formatting (letters/numbers) is incorrect.

There was a consensus (6) regarding Brian Card’s suggestions above. The Town Attorney could review by the August meeting and public hearing could take place in September.

2. Discussion and Direction on Remaining Plan of Conservation and Development Zone Map Changes – Informational workshops - (review/discussion/action)

Keith Thurlow stated that this Item is tabled/deferred.

Motion by Brian Card to open the floor to allow the public to speak regarding Agenda Item:

VIII. UNFINISHED BUSINESS

E. Other

2. Discussion and Direction on Remaining Plan of Conservation and Development Zone Map Changes – Informational workshops - (review/discussion/action)

Second by Sheila Roddy. Motion carried unanimously.

There were no comments from the public.

IX. NEW BUSINESS

A. Zone Change Applications - none

B. Special Permits - none

C. Site Plan Reviews - none

D. Subdivisions - none

E. Other

1. LED signs in residential zones – request from ZEO/Planning Assistant Karen Clark

Karen Clark explained that she has been receiving inquiries for LED signs that would allow the message to change. Currently, Section 540.7 allows for internally illuminated signs. She stated that LED's have the potential to be fairly bright and that each specific application would need to be looked at.

Commission Members expressed concern for brightness. Karen Clark will research and get more information.

2. "Livestock Management Plan" clarification – request also to Killingly Agriculture Commission for their August meeting – from ZEO/Planning Assistant Karen Clark

Karen Clark explained that she received a zoning permit application from an individual (Brent McCullough) on Saw Mill Hill Road. Ms. Clark asked for clarification on what is referred to (in the Regulations) as a "livestock management plan." The Department of Agriculture does not have a "livestock management plan," only "generally accepted agricultural practices."

Keith Thurlow stated that a text change may be necessary to the recently approved agriculture regulations.

Brian Card stated that as he understands it, they (Department of Agriculture) don't have a process to approve a plan, but if the applicant wrote a plan consistent with the on-site inspection (by the Department of Agriculture) and then submitted it to the Agriculture Commission for review, the Agriculture Commission could endorse the plan and then move it on to the special permit process.

Eric Rumsey explained that if it were found to be substandard per the Connecticut Department of Agriculture Regulations, they would enforce it, but, if it were a numbers issue, it would fall to the ZEO.

Motion by Brian Card to open the floor to allow the public to speak regarding Agenda Item:

IX. NEW BUSINESS

E. Other

2. "Livestock Management Plan" clarification – request also to Killingly Agriculture Commission for their August meeting – from ZEO/Planning Assistant Karen Clark

Second by Sheila Roddy. Motion carried unanimously.

John Sarantopoulos, 37 Tunk City Road, stated that he is the neighbor of Mr. McCullough and that he had brought the complaint to Planning and Zoning. He read from Regulations Section 585.6g regarding the number of animals allowed. He feels the language is arbitrary and ambiguous. He gave a history of the construction of various animal housing/enclosures on the property. He stated that the number of animals has increased year after year. He read from the Right To Farm Statute 19A – 341.

Keith Thurlow asked how many animals over the limit. Mr. Sarantopoulos stated 240 additional chickens and 10 pigs more than he should (as stated in the report which he does not disagree with).

Keith Thurlow asked Karen Clark/Staff to follow up with Attorney St. Onge and the Agriculture Commission. Karen Clark stated that it is scheduled for the Agriculture Commission's next meeting.

John Sarantopoulos said that the Right To Farm states that the State does not have the right to tell a community how many animals belong on a property and that, according to Mr. Filcheck, those numbers came up through the Health Department that determine the amount of animals that a certain piece of property can support.

X. ADOPTION OF MINUTES

1. Regular Meeting of June 15, 2015

Motion by Milburn Stone to approve the Minutes of Regular Meeting of June 15, 2015. Second by Sheila Roddy. Motion carried 4-0. Todd Nelson abstained as he had not been present at that meeting.

XI. CORRESPONDENCE

XII. OTHER

- A. CGS 8-24 referrals – None.
- B. Zoning Enforcement Officer's Report – None.
- C. Zoning Activity Review – None.
- D. Building Office Report – None.
- E. Bond releases/reductions/calls – None.
- F. Project completion/mylar filing extension requests – None.
- G. Request to allow overhead utilities – None.
- H. Upcoming P&Z meetings - **Next Regular Meeting – Monday, August 17, 2015**

XIII. ECONOMIC DEVELOPMENT DIRECTOR

Elsie Bisset reported:

- She provided handouts from the joint meeting with the Brooklyn EDC.
- Fuel Cell Energy investigating Ed Eramian's property at 207 Tracy Road. EDC recommended giving them economic incentives, it went to Town Council which introduced a Resolution allowing the Town Manager to negotiate.

XIV. COUNCIL LIAISON

Joyce Ricci reported:

- Council was very enthused about the Fuel Cell Energy presentation.
- Capital Improvement Projects needed to be narrowed down to five projects.
- Favorable evaluation of Town Manager, Sean Hendricks, in Executive Session.

XV. ADJOURNMENT

Motion by Brian Card to adjourn at 9:05 p.m. Second by Todd Nelson. Motion carried unanimously.

Respectfully submitted,

J.S. Perreault
Recording Clerk