

**PLANNING & ZONING COMMISSION  
TOWN OF SCOTLAND  
P.O. Box 122, 9 Devotion Rd, Scotland, CT 06264  
Telephone: (860) 423-9634**

**JUNE 18, 2014 REGULAR MEETING & PUBLIC HEARING  
7:30 PM – SCOTLAND FIRE DEPARTMENT  
47 BROOK ROAD, SCOTLAND, CT**

**DRAFT MEETING MINUTES**

**I. Call to Order.** Chairman Greenberg called the meeting to order at 7:34 pm.

**II. Roll Call/Seating of Alternates.** In attendance: Chairman Gary Greenberg, Vice-Chairman, Terrence Delaney, Secretary, Larry Miller, Peter Martin, Robert Brautigan, Lee Hebert, and Alternate, George Perry. Absent: Erica Andrews, Alternate Henry Bowers & Alternate Jeffrey Jakubowski. Alternate George Perry was seated as a regular member for Erica Andrews. Also in Attendance: Liz Burdick, Zoning Enforcement Officer and Wendy Sears, P & Z Clerk.

**III. Additions to and/or Changes in the Order of the Agenda.** None.

**IV. Approval of the Minutes.** – 05/21/2014 Regular Meeting & Public Hearing.

There was discussion regarding who made motions and who seconded motions from the 05/21/2014 meeting. Clarification was given such that the draft could be corrected.

Motion makers were identified and a typo (“house” v. “hose”) was corrected on page 2.

*Upon MOTION by Terrence Delaney, Seconded by Peter Martin, it was voted unanimously, with Larry Miller abstaining, to APPROVE the minutes of the 5/21/2014 meeting minutes AS AMENDED.*

**V. Audience of Citizens.** None.

**VI. New Business.** None.

*Upon MOTION by Terrence Delaney, Seconded by Peter Martin, it was voted unanimously to ADJOURN to the public hearing.*

**VII. Public Hearing.**

- A.** PZ1401RA - Application of Scotland Planning & Zoning Commission for Proposed Text Amendments to the Scotland Zoning Regulations Regarding

Farm Wineries, Temporary Living Quarters, Kennels and the Definition of Family (Continued from 05/21/2014).

Chairman Greenberg opened the hearing on consideration of proposed changes to regulations stating that the previous month's meeting spent time discussing the definition of family, kennels (briefly), and that this month was a continuation of this discussion. He proposed moving onto discussion about the first three proposed text amendments, and saving the proposed text changes to the definition of family for last.

Section 2.2- Farm Winery, page 5. Planning and Zoning commission were approached more than a year ago by Doug Stearns, of Murphy Hill Rd with request for tasting room as part of an active vineyard. As Mr. Stearns wanted to go beyond the initial model for tasting room, it required reviewing several sets of regulations in order to compile a proposed draft regulation allowing a farm winery and vineyard.

Doug Stearns introduced himself to the Commission, and stated he did not have a lot to say and no questions, but is happy to answer any questions anyone might have. Lee Hebert asked about any kind of limits on the number of wineries allowed in the town. Chairman Greenberg stated that the regulations are written without respect to any particular location, and that a winery can happen anywhere in town in the RAD zoning district with an approved Special Permit, except in the village zoning district. Robert Brautigan brought up an issue/question regarding the products permitted items to be sold at the winery, (8.19, 3. c), such as household goods and other, not wine related. Chairman Greenberg stated that the wording was confusing. It was determined that striking the second "wine related" within the first sentence would clarify the intention.

Terry Delaney brought up concern about the schedules relative to Sunday prior to state holidays. He also indicated he would like to see the initial period allowing outdoor functions be an "incubating period", with movement toward indoor functions. This would allow for other taxable equipment and property, such that the town would see a direct positive financial benefit to such a facility. He made the point that he would like to see outdoor, tent based functions be ancillary to a main function hall or the like. Doug Stearns brought up the fact that the proposed regs as written would limit the number of events, and they would be limited to certain times of the year. Chairman Greenberg stated that regs as written wouldn't allow for a large indoor facility. The board could build in a sunset provision to revisit the issue, expand the number events and create a permanent structure.

Terry Delaney stated that he thinks the winery is a great idea and wants to see it succeed, but wants to see the town see some positive economic benefit from its long term success.

Chairman Greenberg stated that the regs were written such that there was future positioning within the regs to allow for restaurants within the town if amended. As it is now written it provides for the trade off of "low impact for low taxes".

Terry suggested looking at a sunset provision on the special permit, to determine if the winery is able to move forward with more permanent structure and equipment. There was brief discussion about the impact of such a sunset on financing, and how to look at the potential burdens and advantages to a sunset provision. Chairman Greenberg stated it would be discussed further when regulations come up for a vote.

Theresa Lambert had a question regarding the number of events per year.

Charles Lasch questioned the use of grapes at the winery, where the grapes to produce the wine come from and what the State Regulations say. The regulations changed recently related to the percentages of grapes grown on site used in production of wines, and what would qualify a farm winery as such.

Doug Stearns stated that the intention is to use all their own grapes to produce their wine, but that there may be some limiting factors such as demand, the success of vines, etc. They expect to produce the bulk of their wine from their own grapes.

Charles Lasch questioned whether outside wines would be brought in for retail sale at the winery. Stearns stated he may have wines from other vineyards for sale and Chairman Greenberg stated that was defined by state statutes.

Lee Hebert asked if they could sell Brandy. Doug Stearns said that if they make it, they can sell it.

Chairman Greenberg reminded the Commission that the specifics of the subject winery would come before it, because a special permit is required for the winery. The proposed operation would all be guided by the current status of the state law and the regulations as approved.

Terry Delaney expressed concern that this operation not become like a package store. Peter Martin brought up winery in the state that open up as a winery, have a few vines, use the winery name, but bring in wine from outside and use it to have functions at the location. Greenberg stated we wrote the regulations such that this would not be the case here.

Brynn Lipstreu asked for some clarification between indoor and outdoor functions.

Terry Delaney asked about the caterer bringing in spirits, and it was clarified that the caterer could do this under their service license. But it would not be BYOB.

Chairman Greenberg moved to discussion on proposed text amendments to the definition of Kennels. Attorney Branse decided that, in order to make clear the intentions of the town to specifically prohibit kennels, the regulations must define kennels and then prohibit them. There was a brief discussion regarding the wording of the definition of Kennel, and to clarify the amendment deleting the terms kennel and commercial kennel or order to make kennels in all forms prohibited.

Charles Lasch asked what happens when there is a property with a lot of dogs. Chairman Greenberg stated that nothing would be done unless someone complains. If it comes to our attention then there is likely a problem. Charles Lasch asked if the town clerk is put in jeopardy for giving out licenses for more than five dogs? ZEO Liz Burdick said that this is how the discussion was initially started, was the question about licenses and kennel licenses. There was discussion regarding licenses and different types and how they are different, whether it is permitted to have a kennel license and would it continue to be allowed.

There was discussion again regarding the number of dogs that would qualify a property as having a kennel. There was confusion regarding “five or more” or “more than five”. It was determined that the number is “more than five”.

Robert Brautigan suggested that if someone wants to buy a kennel license because it’s cheaper, we could add a stipulation with sale of kennel license which states the number of dogs allowed on a property.

Brynn Lipstreu discussed what Ashford does relative to a kennel license.

Gary Greenberg said that what Liz enforces is what comes to her attention. We don’t go out looking for trouble. Kennel licenses created confusion because people thought by purchasing a kennel license they were now able to run a kennel, even though they weren’t allowed.

Claire D’Appolonio asked about special permits regarding breeding and sale of puppies. Chairman Greenberg said that if people were running puppy mills, the fact that they don’t have more than 6 grown up dogs at a time doesn’t spare them scrutiny. If it comes to our attention, the ZEO would be responsible for going out to see if it is a commercial operation.

Robert Brautigan stated the word “of” was missing in the definition as written, and should read “...collection *of* more than five (5) dogs...”

Lee Hebert asked if this should address any noise or sanitation concerns. ZEO Liz Burdick said that those issues would be addressed by a town ordinance or by the Health Dept.

Chairman Greenberg began discussion on the proposed text amendments to the regulations regarding Temporary Living Quarters for use when a new house being built and when a disaster has created a need to move into temporary housing.

Originally the permit is issued for six months by the ZEO, then ZEO can renew permit for another six months, then a special permit for up to an additional twelve months may be issued by the Commission. Two years, all told for temporary living quarters.

Robert Brautigan stated that he would prefer that the regulation not state (8.8, B., 5.)

“Where a mobile home is used for temporary living quarters, it must be removed from the

property when the permanent dwelling is repaired.” It should read that the temporary dwelling has to be removed *when the certificate of occupancy is issued*. Repaired is open for argument.

Chairman Greenberg said that we need to make this change on the final copy. He thought it had been made but it had not. He also brought attention to (8.8, B., 1., a) the use of structures other than temporary buildings, such as basements etc., as temporary living quarters, and that they “shall comply with Connecticut Public Health Code and Building Codes....”

Chairman Greenberg moved on to the discussion of the proposed text amendment to the definition of Family.

Discussion from previous meeting regarding the definition of Family centered around the number five, related to “number of persons who need not be so related....”

ZEO Burdick discussed how a common household would be substantiated, based on evidence such as licenses or utility bills and the like, if needed. A copy of lease could be requested, unless the home were being lived in by the owner of the property.

Questions were raised about how the definition of family would be applied should a home be lived in by intellectually disabled individuals, owned by a corporation, with support staff on premises. ZEO Burdick stated that ownership of the property is not relevant to the definition of family. Chairman Greenberg stated that whatever the status of the individuals living in the home, the definition of Family is only concerned with the fact that those individuals are functioning as a single unit. There was further clarifying discussion relative to support staff and how that might pose a concern based on the definition of Family. It was also explained that the Planning and Zoning Commission is available and open to discussion about other land use propositions pertaining to Group Homes and the like, but it has not been presented for discussion at this point. Consensus at the moment is not to develop regulations like that, unless it is brought before the board.

Theresa Lambert brought up the discussion at the previous months hearing regarding the ADA, and how reasonable accommodations are required to be made for individuals with disabilities when it comes to zoning regulations.

There was conversation about what common household means in a single family dwelling, i.e. sharing kitchen. Chairman Greenberg offered the example of the Town of Mansfield’s definition of Family, which is three pages long. He shared his hope that the Town of Scotland does not need to resort to such a long explicit definition.

ZEO Burdick read into the record the comments from WINCOG, NECCOG, SECCOG, Town Clerk, Town of Baltic, Town Clerk, Town of Canterbury, Town Clerk, Town of Franklin, Town Clerk, Town of Chaplin, Town Clerk, Town of Hampton, City Clerk, City of Willimantic. The Windham Regional Council of Governments, in a letter dated

May 27, 2014, indicated that the proposed regulation regarding Farm Wineries did not seem to introduce any concerns that might generate negative inter-municipal impact.

The WINCOG planner had concerns regarding the Farm Winery regulations written by the town's attorney, Mark Branse. Based on research conducted into other towns that have similar regulations (one of which was utilized to create these regulations), it is the position of our attorney that these regulations are legally defensible as written, and do not require revision based on these comments.

James Finger, Windham's town planner, sent an email with a link to the CT State Statutes definition of kennels.

***Upon MOTION by Terrence Delaney, Seconded by Peter Martin, it was voted unanimously to CLOSE the public hearing at 8:30 pm.***

### **VIII. Old Business.**

- A. PZ1401RA- Application of Scotland Planning & Zoning Commission for Proposed Text Amendments to the Scotland Zoning Regulations Regarding Farm Wineries, Temporary Living Quarters, Kennels and the Definition of Family.

Amendments/Changes were discussed at this time, both previously discussed/approved and currently approved changes in order to align them for vote.

Change made at the previous meeting dated 5/21/2014 was to the definition of Family where the addition of "or guardianship" was made: "...or adoption (including wards of the State) ***or guardianship***".

There was discussion about the number of unrelated persons who can live together. After some back and forth, it was decided that the number of persons would be "...not more than ***four (4)***."

Change to definition of Kennel to read "One pack or collection ***of more than*** five (5) dogs...."

Change to Definition of Temporary Living Quarters, Section 8.8, b), 5), to read "...when the permanent dwelling is ***issued a Certificate of Occupancy, or when the last permit expires, whichever comes first.***" There was discussion regarding other issues that might cause a permit to expire prior to completion of work. This definition is a lever for completion of work, and any other issues can be resolved by applying to the Zoning Board of Appeals for a variance.

Change to regulation regarding Farm Wineries, Section 8.19, 3., c), adding "but not limited to" and deleting the second "wine related" to read: "The farm winery and

vineyard may include the accessory sale of vineyard and wine related goods to the general public including ***but not limited to*** ~~wine-related~~ food products...”

Change to same regulation, Section 8.19, 3., b), replace “^” with “Section 8.19, 3., d), 10)”, to read: “...except as permitted in Section ***8.19, 3., d), 10)*** below.”

There was a brief discussion regarding adding a sunset provision to the special permit for Farm Winery, and it was determined to be too burdensome with respect to bank financing should such a specific time constraint be placed on the permit.

***Upon MOTION by Terrence Delaney, Seconded by Larry Miller, it was voted unanimously to APPROVE PZ1401RA, Application of Scotland Planning & Zoning Commission for Proposed Text Amendments to the Scotland Zoning Regulations Regarding Farm Wineries, Temporary Living Quarters, Kennels and the Definition of Family, AS AMENDED. EFFECTIVE DATE OF AMENDMENT: JULY 6, 2014.***

Chairman Greenberg introduced the recommendation for the Commission to consider regulations regarding horse farms and address the question of whether horse farms are considered agricultural use or commercial use. This issue came up because of a chicken coop on Pudding Hill converted to an indoor riding ring. There were other inquiries regarding commercial riding rings/centers on horse farms and whether it constitutes a Home Occupation. This brings up questions regarding permitting, parking, traffic, noise complaints and more. Members of the Commission were requested to contact Horse Farm owners in town to invite them to the meeting which will address this topic, likely to be August.

**B. Discussion of policy for informal inquiries and regulations for sex offenders.**

Chairman Greenberg floated the idea of logging all inquiries that come in to any member of the Planning and Zoning Commission. Attorney Branse sent a letter to the CT Association of Municipal Attorneys who agreed that such an act “would be insane”. The objections logging all inquiries were many, including discouraging economic development. Robert Brautigan expressed that he thought it would be ill-advised and didn’t see the need for it. Chairman Greenberg thought it possible that inquiries could be shared among board members, as long as it is not a quorum, (fewer than four people know). He indicated that he would clarify this at a later time. Terry Delaney stated that he was in agreement with that premise. Chairman Greenberg stated that “distributed accountability is often a good idea”, and allows for discussion about whether or not something should come before the Zoning Board. ZEO Burdick expressed concern about logging inquiries and having to advise people that their inquiries would be public knowledge.

Chairman Greenberg clarified that Terry Delaney was asking if there was some sort of intermediate arrangement that would allow for an inquiry to not be public, but that more than one person would be privy to the information, without it necessarily

being public. He indicated that he did not ask this question specifically, but would ask it, and report back.

Chairman Greenberg addressed the topic of regulations for Sex Offenders. Looking at a set of regulations from a town in NY, (not in CT), and an ordinance from the City of Danbury, Attorney Branse indicated that a regulation has not been put in place anywhere in the State of CT regarding Sex Offenders. The NY regulation's position is to limit the movements of Sex Offenders with respect to public property. The attorney pointed out that Scotland has a lot of public property, and regulations end up being challenged basically because they are exclusionary. The important point that the attorney made was that no matter what, it would be a fight. He was not comfortable recommending this avenue because it would be a long and expensive legal battle. That doesn't mean we can't do it, and he wasn't necessarily pessimistic about the outcome, but he said there is no reason that the town of Scotland (financially beleaguered) should be on the cutting edge of land use law. What Attorney Branse also said was that he hadn't had an opportunity to research it fully.

George Perry stated that he thought it would have been good if the town had been aware of the Sex Offender house prior to them moving in. There was more discussion regarding the inquiry process and any decision was decided to be delayed until Chairman Greenberg could report back about some kind of intermediate arrangement.

Chairman Greenberg asked if the Selectmen are considering an ordinance? An Ordinance has to do with Sex Offenders entering public spaces and what business they can conduct there. Selectman Claire D'Appolonio stated that they are looking into it. They have put together a draft of an Ordinance and that it would have to go to a Public Hearing. There was a brief discussion of fines, which are set by the state.

For the record effective date of regulation will be July 6, 2014, which is 15 days from the date of publication in the newspaper.

Chairman Greenberg asked two questions: 1) What is the state of law in CT for Zoning? 2) Do we want to continue to consider this possibility? Terry Delaney expressed his concern about looking into a regulation based on the reaction from the town attorney stating that it would be expensive to work through. He did not feel comfortable making that decision on behalf of the town. Attorney Branse recommended not looking in to doing it.

Topic of Zoning Regulations for Sex Offenders shelved.

**IX. Sub-Committee Reports.** None.

**X. Audience of Citizens.**



Brynn Lipstreu said that at the last meeting (5/21/2014), she thought the consensus was that an Ordinance would be the best route. She also brought up the brief discussion about putting together an ad-hoc committee to work on putting together the Ordinance.

Chairman Greenberg suggested that with the addition of the potential Horse Farm regulation discussion, assistance would be appreciated, as with other regulation re-writes. Also that the Plan of Conservation and Development needs to be re-written every 10 years, and is an opportunity for participation as it is a labor intensive project.

**XI. Administrative Reports.**

Terry Delaney brought attention to a property at the corner of Brooklyn Turnpike and Pudding Hill, and has a camper set up with a sewage pipe going into the ground. It had been there for about a month. Chairman Greenberg stated it is the Arsenault property, and there is no question someone is living there. ZEO Burdick investigated it last year and will re-inspect next week with the Building Official.

**XII. Communications and Bills.** None.

**XIII. Commission Open Discussion.** None.

**XIV. Adjournment.**

*Upon MOTION by Robert Brautigan, Seconded by Larry Miller, it was voted unanimously to ADJOURN the meeting at 9:05 pm.*

Respectfully submitted,

Wendy Sears  
P & Z Clerk

APPROVED BY THE SCOTLAND PLANNING & ZONING COMMISSION ON \_\_\_\_\_, 2014.