



**Town of Beacon Falls
Planning & Zoning Commission
Monthly Meeting Minutes- July 21, 2022
10 Maple Ave Beacon Falls, CT 06403**

(Subject to Revision)

Members Present: Donald Molleur (**DM**), Michael Rupsis, (**MR**), Marc Bronn (**MB**), Jonathan Conte (**JC**) Jack Burns (**JB**), Robert Starkey (**RS**), Harry Roscoe (**HR**), Howard Leeper (**HL**)

Members Absent: Michael Pratt (**MP**)

Others Present: Town Planner Keith Rosenfeld (**KR**), Zoning Enforcement Officer Michael Mormile (**ZEO**), Members of the Public: Joann Delenick 243 Bethany Rd. Amy Bodnar (**AB**) 11 Timber Ridge Lane. Kevin Dokla (**KD**) 10 Timber Ridge Lane.

1. Call to Order/Pledge to the Flag:

DM opened the meeting at 7:3 P.M.

2. Read and Approve Minutes from Previous Meetings:

Motion to accept minutes from the June 16, 2022, monthly meeting, as submitted.

Motion made by MB/MR. All ayes. Motion carried.

3. Comments from the Public: Amy Bodnar (**AB**) 11 Timber Ridge Lane, formal complaint on 12 Timber Ridge Lane. **DM:** This has been added to the agenda and will be discussed.

4. Reports:

- a. Zoning Enforcement Officer- **MM:** Report was submitted to commission; I issued a zoning compliance to 65 Lancaster Drive. Not on the report Town Planners and Finance department are trying to secure grants for an upcoming community center at 35 Wolfe Ave. They will need to request a special exception permit from the PZC after looking into the regulations.
- b. Town Engineer- **DM** spoke to Paul nothing to new to report.
- c. Town Planner- **KR** I have two reports to submit. The one is an Escrow report I will speak later in the meeting. The other report is about the review of New Accessory Dwelling Unit Regulations, Opt-Out Procedures. We would like the commission to review the materials in the next month and decide whether to adhere to the regulations (zoning amendment) or opt out (2/3 votes). **DM:** This needs to be by 1/1/2023. **KR:** We would like to put it on the agenda for next meeting and set a Public Hearing with an effective date of 12/31/2022. **DM:** I would like to be sure that the commission has plenty of time to read and digest October agenda and November public hearing. **Clerk:** Put it on the August agenda for September/October public hearing.

5. Old Business:

- a. Chatfield Farms/EG Home LLC- **DM:** I understand there was stormwater run off which would land under the Inland Wetland Commission. Want to keep on Agenda and add on Pond Spring Village.
- b. Board/Commission Member Training- **DM:** Leah was able to get ahold of Vin and get us training after back to school. We need to pick a date and have it in place for the August meeting and that will renew our certification.
- c. Cannabis Moratorium-PZC-06162022-1-TA – **DM:** Public hearing has ended any comments/concerns from the commissioners. There are none.
Motion made to approve with the three modifications adding product manufacture, product producers, and product packers. HR/ MB. All ayes. Motion carried. Effective Date: 9/10/2022 (Please find at the end of minutes)



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- d. 343 Lopus Road/Tri-Tec Americas LLC – Solar Array- **DM:** No updates, I would like to keep this on next months agenda.
- e. Escrow Account- **KR:** I would like to read my memo the chairman. **Proposed Expert (Peer Review) Zoning Regulation Amendment (Please find at the end of minutes)** I took the liberty to use the one that has been vetted by the Town of Seymour attorney. How the funds will hold and dispersed is a finance question. We could get a group of a few engineering firms, that are in the area, we can use them to review the plans. Let Natasha do the bookkeeping work and PZC do the regulatory work. If this does passes, we would need to amend the application to include the fee would be added to their application fees. I would like to ask the commission to set a public hearing for next month. **DM:** When Savannah-Nicole was here, Natasha, Keith, and myself, we worked diligently to put this together. There would be no major change to the application it would fit in nicely. It simple easy to understand. I would like to entertain a motion to set a public hearing from 7:15pm August 18, 2022.
Motion made to hold a Public Hearing regarding the Escrow Account on August 18, 2022 at 7:15 pm by MR/JB. All ayes. Motion carried.

6. New Business:

- a. PZC-07212022-1-TA: Joseph Rodorigo Text Amendment to revise the Town of Beacon Falls Residential Industrial Transitional Zone Regulations. Section 69.13.3 Subsection C: Principal Permitted Uses Allowed by Zoning Compliance Permit. **JR:** Joe Rodorigo 42 Bonna Street; I am here on behalf of Lee Nemeth Kolga Industries LLC. In July 2021 adoption of the new amended regulations for the industrial transition zone, it allows currently for single family homes to turn to 2 family. 2 family to 3 family. It does not allow for a 2-3 family home to be built in this transition zone. **DM:** Strictly a multifamily **JR:** Strictly a multifamily not business. We are looking for 3 but I wrote 4 because there are lots in the zone that are big enough to fit a 4-family home. **MR:** I thought the zone ended after NEJ **KR:** 2019-2020 the properties were never changed. The transition zone has not landed it's a floating zone, it allows for someone to place them over a single property for areas that qualify being located adjacent to industrial areas. We never had a zone change you just amended the regulations. They would need to apply to be a transition zone property. This would give someone an opportunity to use an underdeveloped property and turn it into viable residences. **MM:** The original intent of the regulation was to stop big box stores from coming in and building on that property align the whole area. **DM:** We need to set up a public hearing. Entertain a notion to set a public hearing.

Motion to set a public hearing for PZC-07212022-1-TA for August 18, 2022, at 7:00pm. By HR/JB. All ayes. Motion carried.

- b. 12 Timber Ridge Lane: **DM:** We have added Timber Ridge to our agenda there are some concerns in that area. Our hands are tied unless we receive a complaint. We have now received a formal complaint. We received a letter from our attorney that was received just prior to the beginning of the meeting. **(Please find at the end of minutes)**. Now that



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we have our attorney on board and researching this, because of a written complaint. We will address it and keep you (resident) informed and thank you for your patience. **AB:** In the letter from the attorney, it states he didn't feel the property has enough acreage. **DM:** This is what he views in the GIS and field cards he is using the towns website. This has all transpired in the last 30 hours and we wanted to let you know that we are on it and glad you came. He will come up with a decision and we will follow. **KD** Property setbacks is set too close to our property line. I would like to know about the inspections for the barn. I was just inquiring and making sure that it is noted. **DM:** Rest assured we are reviewing and will cover it.

7. **Petitions from Commissioners:** None

8. **Correspondence & Payment of Bills:**

a. May 2022 & June 2022 Invoice from Marino, Zabel, & Schellenberg

Motion made to approve and pay both invoices by MR/HL. All ayes. Motion carried.

9. **Adjournment:** Motion made to adjourn at 8:12 p.m. by HR/RS. All ayes. Motion carried.

Meeting adjourned at 8:12 pm.

Respectfully Submitted,

Leah Rajvong
Clerk, Planning & Zoning Commission



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**Town of Beacon Falls
Land Use office**

To: Don Molleur, Town of Beacon Falls Planning and Zoning Chairman
From: Keith Rosenfeld, Town of Beacon Falls Town Planner
Date: June 15, 2022
Re: **Review of New Accessory Dwelling Unit Regulations, Opt-Out Procedures, and a Copy of BF Existing Accessory/In-Law Apartment Zoning Regulations**

- **A new set of statutory requirements were adopted mandating authorization of certain accessory apartments using the following definitions:**
 1. "Accessory apartment" means a separate dwelling unit that (A) is located on the same lot as a principal dwelling unit of greater square footage, (B) has cooking facilities, and (C) complies with or is otherwise exempt from any applicable building code, fire code and health and safety regulations."
 2. "As of right" means able to be approved in accordance with the terms of a zoning regulation or regulations and without requiring that a public hearing be held, a variance, special permit or special exception be granted or some other discretionary zoning action be taken, other than a determination that a site plan is in conformance with applicable zoning regulations."

- **Effective January 1, 2022, all zoning regulations shall:**
 1. Designate locations or zoning districts within the municipality in which accessory apartments are allowed, provided at least one accessory apartment shall be allowed as of right on each lot that contains a single-family dwelling, and no such accessory apartment shall be required to be an affordable accessory apartment.
 2. Allow accessory apartments to be attached to or located within the proposed or existing principal dwelling or detached from the proposed or existing principal dwelling and located on the same lot as such dwelling.
 3. Set a maximum net floor area for an accessory apartment of not less than thirty percent of the net floor area of the principal dwelling, or one thousand square feet, whichever is less, except that such regulations may allow a larger net floor area for such apartments.
 4. Require setbacks, lot size and building frontage less than or equal to that which is required for the principal dwelling and require lot coverage greater than or equal to that which is required for the principal dwelling.
 5. Provide for height, landscaping and architectural design standards that do not exceed any such standards as they are applied to single-family dwellings in the municipality.
 6. Be prohibited from requiring (A) a passageway between any such accessory apartment and any such principal dwelling, (B) an exterior door for any such accessory apartment, except as required by the applicable building or fire code, (C) more than one parking space for any such accessory apartment, or fees in lieu of parking otherwise allowed by section 8-2c of the general statutes, (D) a familial, marital or



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employment relationship between occupants of the principal dwelling and accessory apartment, (E) a minimum age for occupants of the accessory apartment, (F) separate billing of utilities otherwise connected to, or used by, the principal dwelling unit, or (G) periodic renewals for permits for such accessory apartments.

7. The accessory dwelling regulations do not override: (A) applicable building code requirements, (B) the ability of a municipality to prohibit or limit the use of accessory apartments for short-term rentals or vacation stays, or (C) other requirements where a well or private sewerage system is being used, provided approval for any such accessory apartment shall not be unreasonably withheld.
8. A decision on an as of right accessory apartment application must be made within sixty-five days after receipt of such application by the applicable zoning commission unless the applicant consents to one or more extensions of not more than an additional sixty-five days.

▪ **Municipal regulations cannot:**

1. Condition the approval of an accessory apartment on the correction of a nonconforming use, structure, or lot.
2. Require the installation of fire sprinklers in an accessory apartment if such sprinklers are not required for the principal dwelling located on the same lot or otherwise required by the fire code.

▪ **A municipality cannot:**

- Consider an accessory apartment to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless such accessory apartment was constructed with a new single-family dwelling on the same lot.
- Require the installation of a new or separate utility connection directly to an accessory apartment or impose a related connection fee or capacity charge.

○

▪ **Municipal opt-out process for accessory apartment requirements:**

A municipality can opt-out of the statutory accessory apartment regulation requirements under the following procedures taken before January 1, 2023:

1. The PZC, by 2/3 vote, votes to initiate the opt-out process.
2. Public hearing is held.
3. The commission decides to opt out within the ordinary statutory deadlines for considering an application (65 days after close of hearing) stating on the record the reasons for the decision (although the 2/3 vote is required to “initiate” the procedure, we believe a 2/3 vote is required to approve).
4. Publishes notice of decision.
5. The opt out is ratified by a 2/3 vote of the town’s legislative body or its board of selectman if the town meeting is the legislative body.
- 6.

▪ **Failure to adopt or opt out of compliant accessory apartment regulations:**

If a municipality fails to adopt new regulations or amend existing regulations or opt out by January 1, 2023, any noncompliant existing regulation that would apply to accessory apartments becomes null and void and such



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municipality shall approve or deny applications for accessory apartments in accordance with the requirements for regulations set forth in the provisions of subsections (a) to (d) of the new accessory dwelling statute.

(EXISTING) Section 8.19 Accessory/In-Law Apartments

Accessory/In-Law Dwelling Units in Single-Family Residences: A single-family dwelling unit in any residential district may be permitted to allow the incorporation of (1) one additional dwelling unit per lot, subject to the receipt of a Certificate of Zoning Compliance based upon the following conditions:

- a. Maximum Size:** the floor area of the accessory dwelling unit may not exceed one-third of the gross floor area of the building. No more than (2) two bedrooms shall be permitted in the accessory dwelling unit;
- b. Dwelling Unit:** building or part of a building designed for occupancy by one (1) family unit, maintaining a common household, with a separate kitchen for the exclusive use of that unit's occupants (s), a complete separate bathroom/toilet facility, and two (2) separate means of egress and ingress (one (1) to the exterior and one (1) to the other dwelling unit);
- c. Occupancy:** one (1) of the dwelling units shall be owner-occupied at all times; the other must be occupied by the father/mother or grandparents or son-law, daughter-in-law or child or grandchild of one of the owners. (Amended September 21, 1999)
- d. Location of Units:** at least one (1) side of each dwelling unit shall be located at or above grade. Each unit shall have separate exterior entrances; additionally, direct access shall be provided from the living area of the principal dwelling unit to the living area of the accessory dwelling unit. There shall be only one (1) street number address for the dwelling structure and only (1) one mailbox provided;
- e. Utilities/Adequacy:** there shall be only one utility service per lot (i.e. electrical, water, sewer, natural gas, bottled gas) provided for both units. Certification shall be required from the Town Sanitarian/Health Department that the sewage disposal system is adequate to serve both dwelling units;
- f. Outdoor Stairway/Door:** no outdoor stairways serving the accessory dwelling unit on any floor other than the ground floor shall be visible from the public street on which the unit faces. Two (2) separate entrance doors shall not be permitted on the front facade of the building;
- g. Driveway:** only one (1) driveway shall be constructed and utilized for the purpose of serving the primary and accessory unit; sufficient off-street parking shall be provided for a minimum of three (3) vehicles for the structure;
- h. Minimum Lot Size and Yard Requirements:** accessory/in-law units shall be located only in structures which are in conformity with minimum area and dimensional requirements of the zoning district within which they are located. The structure which contains the principal and accessory unit shall meet all applicable setbacks and bulk requirements and shall not detract from the single family character of the neighborhood within which they are located; any addition to an existing structure for the purpose of such accessory/in-law unit shall be architecturally compatible with the existing structure.



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i. Certification of Ownership/Relationship: the owner of the property shall certify, in the form of an affidavit, to the Zoning enforcement Officer, [who shall file such affidavit on the Land Records,] that the owner is in residence in one (1) of the dwelling units on the property and that, if inhabited, the occupant of the in-law apartment must be an individual listed in Section 8.19c herein [that the appropriate relative is in residence in the other unit.] Such certification shall be made at the time of the initial application for the Certificate of Zoning compliance and subsequently on an annual basis by September 1st of each year. The failure to file the annual certification shall void the Zoning Permit. Upon acceptance and approval of the permit, the Zoning Enforcement Officer shall file the initial affidavit upon the land records and retain a file of all subsequently filed affidavits of the applicant. (Amended September 21, 1999)

j. Accessory/In-Law Apartments: which were built prior to the adoption of this Regulation, but for which permits were issued may be certified upon inspection by the Zoning Enforcement Officer and the Building Inspector provided they are deemed safe and in compliance with the basic conditions of these Regulations. Compliance with Section "i" is required in all cases. Failure to comply after 30 Days after adoption of these amendments on September 21, 1999 may result in a fine. (Amended September 21, 1999)



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To: Don Molleur, Chair, Town of Beacon Falls Planning and Zoning
From: Keith Rosenfeld, Town of Beacon Falls Town Planner
Date: July 21, 2022
Re: **Proposed Expert (Peer Review) Zoning Regulation Amendment (Escrow Account)**

- Recently passed Connecticut statutes allow municipalities to set by ordinance reasonable fees for processing applications submitted to the planning, zoning, or planning and zoning commission; the zoning board of appeals; or inland wetlands commission.
- Additionally, municipalities may adopt regulations establishing reasonable technical consultant fees for applications made to the Seymour Planning and Zoning Commission.
- The following amendment allows for this type of expert review to occur when the Commission is reviewing and making decisions regarding all required site plan approvals.

Presented are proposed amendments to the Beacon Falls Zoning Regulations for Expert (Peer Review) when additional expertise is required regarding complex land use applications.

It is recommended that a public hearing for the following amendment's consideration be scheduled for the regularly scheduled, August, 2022 PZC meeting date.

(New Section) 51.2.6 Expert Review: Where it has been determined by the Commission that it must consult with experts to analyze, review and report on areas requiring a detailed peer review to assist the Commission in evaluating the effect of a proposal on the Town, the Commission shall require the applicant to pay these costs. These fees will be paid to the Town for the Commission's uses prior to proceeding on the application based on a preliminary estimate from such experts, multiplied by one hundred fifty percent (150%). Upon completion of the technical review and full accounting of the charges owed or paid, all excess funds will be returned to the applicant.



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From: vmarino@mzslaw.com,
To: gsmith@beaconfallsct.org, dmolleur@aol.com,
Subject: Livestock for TPZ 4893-8660-3050 V.I
Date: • Thu, Jul 21, 2022 5:41 pm
Attachments: • Livestock for TPZ 4893-8660-3050 V.I .pdf (104K),

Gentlemen,

I will continue to work on this opinion and make certain that it is final for your next meeting. My preliminary review is that the subject lot is too small to support 2 livestock units and since this a new construction, I do not see a basis for a pre-existing non-conforming argument. Additionally, unless there is something unique to Beacon Falls under general zoning principals, you cannot have an accessory structure before you have a primary structure.

Since a CO has not yet issued for the primary use, can someone please explain to me how an active barn is being used on this site?

We may want to have a sit down with our building official and ZEO and try to understand their version of this reality.

Vin



MARINO, ZABEL &
SCHELLENBERG, p.c.
ATTORNEYS AT LAW

Vincent M. Marino, Esq.
Direct Dial: 203.864.4661
Email: vmarino@mzslaw.com



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MEMORANDUM

TO: The Honorable Gerard Smith, First Selectman

FROM: Vincent M. Marino, Esq., Land Use Counsel

DATE: July 21, 2022

RE: Complaint of Amy Bodnar concerning 12 Timber Ridge Lane

You asked me to opine on whether the written emailed complaint submitted by Amy Bodnar dated July 14, 2022. In her complaint, Ms. Bodnar raised follow up questions for two items addressed in the letters that she received. She feels that the responses were inaccurate, dismissive and that her complaints were not fully investigated. She believes that the subject of her complaint has received favoritism by the enforcement staff.

For purposes of this opinion, I am relying upon information that is generally accessible to me through the Town's website, the GIS system, the Zoning Regulations, as amended on March 4, 2022, and as pre-existing, the building code, and the information that you emailed to me on July 18, 2022.

First Complaint

In her first complaint, Ms. Bodnar asserts that section 8.4.6.3 of the Beacon Falls Zoning Regulations places restrictions on the number of livestock that a resident can maintain on a parcel based on its size.

657 orange Center Road, Orange, Connecticut 06477



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At its monthly meeting on February 17, 2022, the Planning & Zoning Commission approved the application of Cody and Kristina Muth to amend the zoning regulations of the Town of Beacon Falls, PZC-10212021-1-TA / MUTH Accessory Residential Poultry and Livestock Regulations, concerning the number of poultry and livestock units were permitted as a residential accessory use. Notice of the Commission's decision was posted and published on March 6, 2022, and the amended regulation became effective on March 21, 2022.

Prior to March 21, 2022, there was no section 8.4.6.3. The regulation of livestock was previously addressed in sections 8.8 2a and 8.8 2b of Article I of the zoning regulations. On December 1, 2020, I provided an opinion on the definition of "livestock." I have attached a copy of that opinion hereto and incorporate herein by reference.

I will make a quick note that section 8.8.2a and 8.8.2b were also amended by the Commission on March 21, 2022 to remove all the restrictive regulatory language. Under 8.8.2a Horses or ponies may now be kept on lots of less than five acres provided that the lot contains an area not less than 40,000 square feet for each such animal and the total number of such animal does not exceed three. Under 8.8.2b, a property owner can now generally have 20 chickens, subject to the new regulatory language.

When it amended its regulation, the Commission amended section **8.4.7.2**
SPECIFIC LIVESTOCK REQUIREMENTS to read as follows



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- 1) Minimum lot size. A property must be greater than or equal to threequarters (.75) of an acre in order to keep livestock as an accessory residential use.
- 2) Number of Livestock. A property which meets the minimum lot size may keep up to one (1) livestock unit. A property of one (1) acre or more may keep up to 1.0 livestock units and 0.5 livestock units for every additional acre thereafter Please refer to Table 1 — Number of Permitted Accessory Residential Poultry or Livestock Uses for additional information.
- 3) Management. Livestock shall be suitably contained on the premises at all times. Free range livestock are prohibited

The amended language of section 8.4.7.2 clearly provides that the number of livestock is limited to one (1) livestock unit for the first acre and 0.5 livestock units for every additional acres.

Ms. Bodnar claims that 12 Timber Ridge Lane ("12 TRL") is not large enough to maintain two livestock units in accordance with the Beacon Falls zoning regulations. 12 TRL is located in an R-1 zone and according to the tax assessors ID Card consists of 1.0300 of vacant residential land and 0.9300 of residential excess acres for a total site land size of 1.9600. Slightly under two acres, but under two, nonetheless.