

**TOWN OF BOZRAH  
BOZRAH TOWN HALL, 1 RIVER ROAD  
BOZRAH, CONNECTICUT 06334**

**BOZRAH PLANNING & ZONING COMMISSION**

AGENDA

Thursday, June 9, 2022, 7:00 p.m.

The Bozrah Planning & Zoning Commission will hold its regular meeting on Thursday, June 9, 2022, at 7:00 p.m., at the Bozrah Town Hall, 1 River Road, Bozrah, CT.

1. Review and approve minutes:
  - a. May 12<sup>th</sup>.
2. Review correspondence pertaining to agenda items.
3. Hear the report of the Zoning Enforcement Officer.
4. Hear the report of the Town Planner.
5. Public comment period.
6. Review general correspondence.
7. Executive session: Discuss litigation regarding 211 Bashon Hill Road.

Stephen Seder, Chairman  
Planning & Zoning Commission

**REGULAR MEETING  
TOWN OF BOZRAH  
PLANNING AND ZONING COMMISSION**

**May 12, 2022**

Chairman Steve Seder called the regular meeting of the Town of Bozrah Planning and Zoning Commission to order at 7:00pm, on Thursday, May 12, 2022. The meeting was at Bozrah Town Hall, 1 River Road, Bozrah, Connecticut.

Members present: Scott Barber, Nancy Taylor, Manny Misarski, Steve Coit, Steve Gural (alt.), Seymour Adelman (alt.), Frank Driscoll (alt.).

Others present: Glenn Pianka (First Selectmen), Sam Alexander, AICP (Town Planner/SCCOG), John Herring (Zoning Enforcement Officer/SCCOG), Mark Zamarka (Waller, Smith and Palmer, P.C.), William Sweeney (TCORS), Debra White-Palmer, Brian Palmer, Logan Gordon, Tracy Gordon, Sabrina Weisberger Foulke, AIA (Point One Architects), Kelsy Janus, AIA (Point One Architects), Ray Barber, Alex Gebbie, Carolyn Dziengiel, others from the public were present.

1. Review and Approve Minutes:

a. April 14<sup>th</sup>

Motion by Steve Gural to approve the minutes as presented. Second by Nancy Taylor.

**VOTE: UNANIMOUS – MOTION CARRIED**

2. Review Correspondence Pertaining to Agenda Items.

Sam Alexander (Town Planner) noted the items contained in the packets for the evening.

3. Hear the Report of the Zoning Enforcement Officer.

John Herring (ZEO) reported on recent zoning enforcement activity and administrative approvals.

4. Old Business:

a. Bashon Hill Farms, LLC, 211 Bashon Hill Road: Owner: Stoney Hill Farm, LLC. Modification of an approved Special Exception, Excavation. Increase truck traffic volume above previously permitted volume.

Steve Coit was recused. Steve Coit, Frank Driscoll, and Seymour Adelman did not participate in deliberations.

Sam Alexander (Town Planner) reviewed the Special Permit general criteria. Scott Barber asked Commissioners if they have any questions pertaining to the application. Scott Barber noted that the Commission is simply acting on the application in front of them and no other consideration. The Commission was in concurrence that it was ready to make a decision.

A motion was made by Nancy Taylor to *deny the application to modify a special exception for 211 Bashon Hill Road, made by Bashon Hill Farms, LLC, owner Stoney Hill Farm, LLC, to increase the allowed volume of truck traffic from two trucks per day to twelve trucks per day. The Commission found that the excess*

*traffic created by the excavation activity created hazardous conditions incompatible with the surrounding neighborhood, and endangered public health, safety, and welfare. Further, there is evidence in the record that the applicant would be removing more material from the site than previously permitted, including material smaller than 3 inches, which was previously proposed to remain on-site and returned to the field.* Manny Misarski seconded the motion.

**VOTE: UNANIMOUS – MOTION CARRIED**

5. New Business:

a. Tracy and Logan Gordon (Main’s Country Store), 318 Fitchville Road: Commercial Site Plan. Addition to a commercial building, removal of parking area islands, and other improvements.

Logan Gordon (Main’s Country Store) described the store’s planned expansion, which focused primarily on the interior of the building. Interior renovations necessitated a slight increase in total footprint because of the addition of an enclosed vestibule at the entrance. Repaving is also proposed, and Main’s intends to remove two small islands from the parking area if allowed by the Connecticut Department of Transportation (DOT).

Kelsy Janus, AIA of Point One Architects described exterior elements that would be changed. The project includes a complete overhaul of the façade and new building-mounted signage.

Sam Alexander explained that the increase in footprint requires zoning approval, as well as the signage. Both appear to meet the zoning regulations. The parking lot, since it is being repaved and restriped, can proceed without approval from the Commission. It was noted that the islands could either stay or go, based on approval from DOT.

Sam Alexander noted that the setback would be reduced as part of the increase in footprint. The more permissive standards of the Village Overlay District would be applied if the building renovation incorporates “New England” -style features. The Commission was generally in agreement that it did.

A motion was made by Steve Gural to approve the site plan. Manny Misarski seconded the motion.

**VOTE: UNANIMOUS – MOTION CARRIED**

b. Pre-application discussion: Debra White-Palmer. Zoning regulation amendments to allow Event Venues in the Highway Commercial zone by Special Exception.

Attorney William Sweeney (TCORS) presented draft zoning regulation amendments on behalf of Debra White-Palmer, 410 Salem Turnpike, owner of DWP Events at the same location. Ms. White-Palmer would like the ability to host private events, such as weddings at her business/home in the Highway Commercial zone.

Mr. Sweeney reviewed the draft regulation amendments, which create a new Special Exception category for Event Venue, with use regulations, including a 200-person attendance limit, minimum acreage of 2 acres, allowance of off-site parking, a 10pm limit on amplified music, screening and buffering, and compliance with the health code.

The Commission discussed aspects of the proposed amendments, such as the presence of ledge to the north and south of the Highway Commercial district and the tendency for sound to reverberate, minimum acreage requirements, conflicts with neighbors, off-site parking and shuttling, screening, buffers, and setbacks. Mr. Sweeney took in the

conversation and stated that he would discuss revisions with Ms. White-Palmer before submitting an application.

6. Affordable Housing Plan.

Sam Alexander noted that the adopted plan requires two minor modifications, for clarification purposes. Motion by Manny Misarski to approve minor modifications suggested by the Town Planner. Second by Steve Gural.

**VOTE: UNANIMOUS – MOTION CARRIED**

7. Public Comment Period.

Alex Gebbie (Pledge Property Management) addressed the Commission regarding 194 Fitchville Road. Mr. Gebbie is interested in converting this from an office to a multi-family building. Mr. Gebbie's company owns about 400 units of housing in the area, including a number of properties on Fitchville Road. The zoning does not currently allow for this, since the property is in the Industrial 80 zone, overlaid by the Village Overlay District.

The Commission discussed the possibility of a zoning map amendment, and the nature of the property as well as the properties around it. The feeling of the Commission was inconclusive. Nearby, zoning is R-2 Residential.

Carolyn Dziengiel (Bashon Hill Road) asked whether any enforcement actions have been taken or will be taken for 211 Bashon Hill Road. Ms. Dziengiel commented that 211 Bashon Hill Road has a pending wetlands application.

Glenn Pianka (First Selectman) spoke about consistency in zoning and not always needing to make amendments to fit every project. There is a Board of Selectmen meeting on Tuesday where the budget will be discussed. Seymour Adelman stated that the groundwater level at 194 Fitchville Road is high and a proper septic system will be difficult to accommodate for a multi-family building. Glenn Pianka commented on the needs of businesses; he attended a Southeastern Connecticut Enterprise Region meeting, where he learned that there is a need for 25,000 to 35,000 square-foot buildings with no interior walls.

8. Review General Correspondence.

There was none.

9. Such other Business as the Commission may Vote to Hear.

The Commission discussed enforcement action to be taken for 211 Bashon Hill Road with the Zoning Enforcement Officer. There was discussion of the need for an attorney with more practical experience in excavation.

A motion was made by Manny Misarski to issue a Cease and Desist Order for excavation activities at 211 Bashon Hill Road, then consult with the Town Attorney. Second by Steve Gural

**VOTE: 2 in favor, 2 opposed, 1 abstained - MOTION FAILED**

A motion was made by Nancy Taylor to recommend hiring of an outside consulting land use attorney in coordination with the Board of Selectmen, with the Board of Selectmen raising the issue its next meeting. Second by Steve Coit.

**VOTE: UNANIMOUS – MOTION CARRIED**

Motion by Steve Gural to adjourn. Second by Manny Misarski.

**VOTE: UNANIMOUS – MOTION CARRIED**

The meeting was adjourned at 9:05pm.

Respectfully submitted,

Samuel Alexander  
Town Planner/SCCOG

RETURN DATE: JUNE 28, 2022

SUPERIOR COURT

STONEY HILL FARM, LLC

JUDICIAL DISTRICT OF

V.  
TOWN OF BOZRAH PLANNING &  
ZONING COMMISSION

NEW LONDON AT NEW LONDON

MAY 26, 2022

TO ANY PROPER OFFICER:

By authority of the State of Connecticut, you are hereby commanded to summon the BOZRAH PLANNING & ZONING COMMISSION, Town Hall, 1 River Road, Bozrah, Connecticut 06334, to appear before the Superior Court within and for the Judicial District at New London on June 28, 2022 then and there to answer the attached Appeal of Stoney Hill Farm, LLC, of 743 Main Street, South Glastonbury, Connecticut, 06073 and owner of property located at 211 Bashon Hill Road, Bozrah, Connecticut 06334 by leaving two (2) true and attested copies of this Citation and attached Appeal, at least twelve (12) days before the Return Date, with Lynn Skinner, Town Clerk of the Town of Bozrah, 1 River Road, Bozrah, Connecticut 06334, directing the Town Clerk to retain one copy and forward the second copy to the Bozrah Planning & Zoning Commission. Such appearances shall not be made in person, but shall be made by filing a statement of appearance with the Clerk of the Court, whose address is 70 Huntington Street, New London, Connecticut 06320, on or before the second day following the Return Date.

The plaintiff as principal, and James Paternostro, as surety, are recognized in the amount of \$250 to prosecute this appeal to effect and comply with all orders and decrees of this court.

**RECEIVED**

MAY 31 2022 (6)

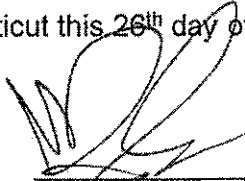
OFFICE OF THE FIRST SELECTMAN  
TOWN OF BOZRAH

A TRUE COPY  
ATTEST:  
J. MARTIN STATE MARSHAL

WALLER, SMITH &  
PALMER, P.C.  
Counselors at Law  
52 Eugene O'Neill Drive  
P.O. Box 88  
New London, CT 06320  
Tel. No. (860) 442-0367  
Juris Number 65975

Hereof fail not, but of this writ with your doings thereon, make due service and  
return.

Dated at New London, Connecticut this 26<sup>th</sup> day of May, 2022.



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Mark S. Zamarka  
Commissioner of Superior Court

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RETURN DATE: JUNE 28, 2022

SUPERIOR COURT

STONE HILL FARM, LLC

JUDICIAL DISTRICT OF

V.  
TOWN OF BOZRAH PLANNING &  
ZONING COMMISSION

NEW LONDON AT NEW LONDON

MAY 26, 2022

**APPEAL FROM THE BOZRAH PLANNING AND ZONING COMMISSION**

To the Superior Court for the Judicial District of New London at New London on May 26, 2022, comes Stoney Hill Farm, LLC of 743 Main Street, South Glastonbury, Connecticut, 06073, County of Hartford and State of Connecticut, appealing under Connecticut General Statutes §§ 8-8, 8-9 and 22s-19 et seq. from a decision of the Planning and Zoning Commission of the Town of Bozrah, County of New London and State of Connecticut denying an application for a modification for an excavation permit issued for property located at 211 Bashon Hill Road, Bozrah, Connecticut.

1. The Plaintiff, Stoney Hill Farm, LLC, has a business address of 743 Main Street, South Glastonbury, Connecticut, 06073 and is the owner of the property located at 211 Bashon Hill Road, Bozrah, Connecticut that is the subject of this appeal ("Property").
2. The Defendant Planning and Zoning Commission ("Commission") is the Commission designated by the Town of Bozrah, having all the powers and duties set forth in the Connecticut General Statutes, including Chapter 124 relating to municipal planning and zoning commissions.

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3. On October 14, 2021, the Commission approved with conditions plaintiff's application for an excavation permit regarding the Property for a three (3) year period. ("Permit").
4. One condition of approval imposed by the Commission was that no more than two (2) trucks per day are allowed to remove material from the Property.
5. Shortly after beginning work pursuant to the Permit, plaintiff discovered that there was more material (large rocks and boulders) than originally anticipated. At the rate of two (2) trucks per day the excavation work would extend well past the three (3) year term of the Permit.
6. On February 24, 2022, plaintiff filed an application to modify the Permit, seeking to increase the amount of truck traffic previously approved. ("Modification").
7. The Commission conducted a public hearing on the Modification on March 31, 2022.
8. At its May 12, 2022, meeting the Commission voted to deny the Modification.
9. In making its decision to deny the plaintiff's Modification, the Commission acted illegally, arbitrarily and in abuse of its discretion in that:
  - a. The Commission's decision was a result of bias and predisposition which is based on facts which are erroneous and not supported by evidence.
  - b. The Commission ignored its own criteria in that it failed to consider the Modification in relation to the Bozrah Regulations.

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- c. The Commission improperly found that increased truck traffic would create hazardous conditions incompatible with the neighborhood and would endanger the public health, safety, and welfare.
- d. The Commission's decision cannot be sustained in view of the reliable, probative evidence in the record.
- e. The Commission's decision is based on such errors of law and facts as the record may reveal.

10. Upon information and belief, the defendant Commission published notice of its decision in the Norwich Bulletin newspaper on or about May 15, 2022.

11. The plaintiff is aggrieved as owner of the Property that is the subject of the Permit and Modification.

**WHEREFORE**, the plaintiff requests the following relief:

- 1. That this appeal be sustained, and that the decision of the Commission be overturned, and the plaintiff's Modification be granted.
- 2. Costs as provided by § 8-8 (1) of the Connecticut General Statutes; and
- 3. Such relief as the Court deems appropriate.

Dated at New London, Connecticut this 26<sup>th</sup> day of May, 2022.

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PLAINTIFF, STONEY HILL FARM, LLC

By: 

Mark S. Zamarka, of  
Waller, Smith & Palmer, P.C.  
Its Attorney

On behalf of the of the Plaintiff, Stoney Hill Farm, LLC, please enter the appearance of:

Mark S. Zamarka, Esq.  
Waller Smith & Palmer, PC  
52 Eugene O'Neill Drive  
New London, CT 06320  
(860) 442-0367  
Firm Juris #065975

For the Plaintiff:



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Mark S. Zamarka

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