

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

March 31, 2022

Chairman Steve Seder called the special meeting of the Town of Bozrah Planning and Zoning Commission to order at 7:00pm, on Thursday, March 31, 2022. The meeting was at Bozrah Town Hall, 1 River Road, Bozrah, Connecticut.

Members present: Stephen Seder (Chairman), Scott Barber, Nancy Taylor, Manny Misarski, Steve Gural (alt.).

Others present: Glenn Pianka (First Selectmen), Sam Alexander, AICP (Town Planner/SCCOG), John Herring (Zoning Enforcement Officer/SCCOG), James Paternostro Jr. (Bashon Hill Farms, LLC), Jennifer Paternostro (Bashon Hill Farms, LLC), Mark Zamarka (Waller, Smith & Palmer, P.C.), Carolyn Dziengiel, Alec Farquhar, Julie Martin, Nancy Renshaw, Barbara Speerli, Mike Badorek, Steve Kobelski, Thomas Koltiska, Julie Martin, others from the public were present.

1. Public Hearing:

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

Steve Seder called the public hearing to order at 7:00pm and read the public hearing notice aloud. Steve Seder appointed Steve Gural to sit as a regular member for the evening.

Steve Seder asked for communications on the subject. Sam Alexander (Town Planner) noted the items in the public hearing file and briefly described each.

Attorney Mark Zamarka (Waller, Smith & Palmer) presented on behalf of Bashon Hill Farms, LLC, the applicant.

- The applicant received an excavation special exception in October to excavate the fields at 211 Bashon Hill Road in three phases with limits on days of the week and hours of operation.
- It became apparent that more material existed on the property than understood at the time, and large boulders were too large to palletize. There is a need to remove material at a faster rate from the site.
- The Commission is bound by their regulations. Attorney Zamarka remarked on the special exception general criteria and the requirements for excavations, explaining that they continue to be met.

Steve Seder asked for a report of the Town Planner. The Town Planner's report had previously been submitted in the file. Steve Seder explained that this application's genesis was zoning non-compliance.

Steve Seder asked for commenters in favor of the proposal.

Alec Farquhar (106 Scott Hill Rd., Lebanon) commented on the fact that the land is being put to productive private use; if the land were used for development there would be more traffic and more inconvenience to neighbors.

Steve Seder asked for commenters opposed to the proposal.

Carolyn Dziengiel (194 Bashon Hill Rd.) stated that she is not opposed to the property being turned into a farm. Ms. Dziengiel read a prepared statement (*attached*). Ms. Dziengiel commented on the size of the stone, depth of digging, and approved amount of material (18,000 cubic yards). Ms. Dziengiel noted that the applicant cannot guarantee speed or safety of trucks. Ms. Dziengiel stated that quarrying is prohibited per Section 2.1.6 of the zoning regulations and read the dictionary definition of quarry. Ms. Dziengiel asked if the work was necessary to create fields for crops.

Julie Martin (247 Bashon Hill Rd.) commented on safety--she has two small children and there is a disabled person living nearby. Ms. Martin stated that four trucks passed before 8:00am when her kids were waiting for the bus. Ms. Martin commented on the condition of the road and damage from trucks; no engineering study was done to assess adequacy of the road to handle this traffic. Ms. Martin stated she is worried about impact to her well and to New England Cottontail. Ms. Martin stated that the applicant is not keeping to required hours of operation.

Barbara Speerli (35 Goshen Rd.) noted the lack of peace and that no farming will take place. Ms. Speerli commented on truck volume and noted on March 17th there were 10 trucks passing in 2.5 hours. Ms. Speerli suggested a "no through trucks" sign at Bashon Hill Road and Goshen Road.

Mike Badorek (190 Bozrah St.) stated that the property was formerly a farm and is not one now. Mr. Badorek noted that he has seen as many as 15 trucks per day but that volume has dropped recently. Mr. Badorek noted that most people drive above the speed limit.

Steve Kobelski (237 Bashon Hill Rd.) noted traffic in excess of nine trucks per day. Mr. Kobelski noted that his children ride bikes up and down the street. Mr. Kobelski noted noise and operation before 7:00am. Mr. Kobelski asked why the applicant would abide by a new "agreement". Mr. Kobelski noted the depth of holes and that he flew his drone over the property. There was back and forth.

Mike Badorek stated that he believed material was being brought in to 211 Bashon Hill Road.

Thomas Koltiska (235 Bashon Hill Road) stated that everyone has tried to be a good neighbor. Mr. Koltiska stated that he is rarely home because he works construction but tries to sleep when he is home. Mr. Koltiska stated that Mr. Doubleday harvested hay and other crops. Mr. Koltiska stated that the applicant was not meeting the requirements of the regulations and that roads and bridges could not handle the traffic. Mr. Koltiska stated that the applicant does not live there but that he hopes he does eventually. Mr. Koltiska stated that trucks must use engine brakes coming down the hill.

Steve Gural asked about the depth of digging, believing that it is greater than the 48 inches proposed.

James Paternostro Jr. stated that he is rebuilding the house slowly; it is expensive. Mr. Paternostro stated that he has exceeded allowed number of trucks and commented on allowed yardage of material. There was discussion about capacity of each truck (18-20 yards). Mr. Paternostro described his process. Mr. Paternostro stated that the property was farmed for hay, no one could put a plow into the ground because of the amount of stone; his plan is to turn the field into a flat, tillable field. Mr. Paternostro stated that he can stockpile material if need be but that it isn't preferred. Mr. Paternostro stated that he is not digging deep. There was back and forth. Mr. Paternostro said he understands where neighbors are coming from but had not heard from any of them previously; he and his brother are doing the work and try to do as much as they can every day.

Carolyn Dziengiel stated that she is not opposed to the property becoming a farm. Ms. Dziengiel commented on the total allowed yardage of material and stated that the plan must be followed.

Julie Martin stated that children should be able to use the road. There was back and forth.

Tom Koltiska stated that he would like to see the property become a farm but that the applicant did not abide by the "first contract". There was back and forth.

Alec Farquhar stated that he grew up in Marlborough and commented on how the town has changed. Mr. Farquhar commented on the size of the land and the possibility of it all being residential development, which would create more traffic. Mr. Farquhar stated that truckers or trucking companies have insurance and issues with safety should be brought up to the trucker.

Steve Gural stated that cars and trucks are different. Jennifer Paternostro stated that cars can still go 50 miles per hour. Steve Gural stated that the number is under control of the Commission.

Barbara Speerli commented on the commercial nature of the operation. There was back and forth.

Scott Barber stated that the applicant is not abiding by the original plan. James Paternostro, Jr. stated that he thinks around 8,000 cubic yards were taken out and he is 3/5 of the way through phase one. There are areas with sand and no rocks and areas that are 80% rock. Mr. Barber stated that it seems Mr. Paternostro should be more forgiving of the public's concern. Mr. Paternostro stated that he would be willing to limit traffic until after 8:00am.

Tom Koltiska noted that a neighbor is a cancer survivor. Mr. Paternostro stated that he has a good relationship with that person.

Scott Barber noted the tension in the room and felt there should be an effort to accommodate concerns of neighbors.

Nancy Taylor stated that she is reserving judgement and that whether the applicant is making money from the operation is not of concern to the Commission.

Manny Misarski stated that the Commission was friendly and open and that the applicant did not abide by the conditions of the Special Exception. He did not see why the applicant would abide by new conditions. Mr. Misarski asked by an application was not submitted earlier. Mr. Misarski stated that he heard digging depth was as much as 12 feet.

Steve Gural stated that the operation is not proceeding as envisioned. There was talk about the original Cease and Correct Order in 2021. James Paternostro Jr. asked the Town Planner about the depth of digging. Sam Alexander stated he did not believe he saw any holes that were 12 feet deep on his recent visit that week (March 28), but did not measure any holes. Mr. Paternostro said some areas may be five or six feet and noted that unevenness of the land.

Mark Zamarka gave final remarks; there is one question that the Commission should consider: whether the applicant meets the requirements of the regulations. Mr. Zamarka noted that there was no damage to the road or even evidence that the volume of trucks cited were all tied to the operation; there are other excavations in town. Mr. Zamarka stated that the application is not about the prior owner of the property. What is before the Commission right now is a question of whether the application meets the regulations.

Steve Seder asked for new information not brought up. Glenn Pianka (First Selectman) stated that he was asked to speak on behalf of residents who want to be good neighbors but do not support the operation. Mr. Pianka stated that granting additional trucks would

only expand the breadth of the operation. By the math, the applicant has already exceeded proposed annual cubic yardage. Mr. Pianka stated that he is not aware if truck traffic has caused any impact to the road. Mr. Pianka remarked on the residential nature of the area.

Mark Zamarka did not feel the need to address the comments.

John Herring (Zoning Enforcement Officer) asked about cubic yardage taken from the site, noting that based on the amount of truck trips, the applicant has reached about 40% of the total allowed cubic yardage, so it would seem they should be slowing down trucking, not increasing its pace. James Paternostro Jr. noted that 4,000 to 5,000 cubic yards were already on-site, and he did not believe the engineer took those above-grade piles into consideration.

There were no other comments from anyone. Scott Barber made a motion to close the public hearing. Nancy Taylor seconded the motion.

VOTE: UNANIMOUS – MOTION CARRIED

The public hearing was closed at 8:26pm.

2. Old Business.

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

Scott Barber made a motion to adjourn. Manny Misarski seconded the motion.

VOTE: UNANIMOUS – MOTION CARRIED

The meeting was adjourned at 8:26pm.

Respectfully submitted,
Samuel Alexander
Town Planner/SCCOG