

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

September 9, 2021

Chairman Steve Seder called the regular meeting of the Town of Bozrah Planning and Zoning Commission to order at 7:00pm, on Thursday, September 9, 2021. The meeting was at the Bozrah Town Hall, 1 River Road, Bozrah.

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

Members absent: Frank Driscoll (alt.).

Others present: Glenn Pianka (Board of Selectmen), Sam Alexander, AICP (Town Planner/SCCOG), Evelyn Brown, Ray Barber, Scott Taylor, Jason Reynolds (Reynolds Engineering Services), David Held (Provost & Rovero), Wes Wentworth (Wentworth Civil Engineers), David Gesiak.

1. Public Hearing:

a. Revelation Church, 166 Bishop Road: Special Permit - Excavation. Applicant proposes to remove surface stones and boulders from 26.6 acres on the subject property.

Nancy Taylor recused herself from the public hearing portion of the agenda. Chairman Sam Alexander (Town Planner) read the public hearing notice. Chairman Seder sat Seymour Adelman in place of Nancy Taylor.

Sam Alexander remarked on communications. No public comments were received. A number of staff memos were contained in the hearing file. The Inland Wetland and Conservation Commission approved the activity with conditions on September 2.

David Held, P.E., L.S. (Provost and Rovero) presented on behalf of Revelation Church.

- The excavation activity is proposed in an area over 26 acres with buffers given around wetlands resources and property boundaries.
- The excavation is broken into six phases, each under five acres in size.
- The excavation proposes not to change the overall topography of the land but to remove boulders at or just below the surface. Boulder would be split on-site and sorted by size.
- The excavation proposes an average of two tri-axle truckloads of rock per day leaving the site.
- The activity was conducted for three years until receiving a Cease and Correct Order. The activity was conducted on another portion of the Revelation Church property as well.
- The activity is conducted in such a way that there is little planned ground disturbance at one time and areas revegetate naturally.
- The applicant plans to prepare a future application pertaining to the remainder of the property.
- The applicant is requesting certain considerations by the Commission.
 - Waiver of the site plan requirement for an A-2 survey.
 - Approval of the applicant's ability to cross phase limits.

- Waiver of a surety bond, since the Inland Wetlands and Conservation Commission is requiring a surety bond.
- The applicant asks that the application no longer be reviewed by the town's consulting engineer.

Chairman Seder asked for a staff report. Sam Alexander noted that there has been significant staff correspondence with the applicant, both through him and the town engineer. Currently staff is in disagreement with the applicant over the level of detail provided in the erosion and sediment control plan and overall sequence of operations; it seems to leave open the possibility for unplanned site disturbance, creating potential for significant drainage issues. Sam Alexander read a memo dated September 3, which is his most recent correspondence on the application (attached).

Chairman Seder asked if there were any commenters in favor the application. There were none. Chairman Seder asked if there were any commenters opposed to the application.

- Susan Ververis, 161 Bishop Road, commented on the noise created by the operation and truck traffic over the last three years. She noted that the truck traffic is not "negligible".
- Mike Betten, 68 Wawecus Hill Road, asked if excavation included removal of rock walls, because he believed rock walls were removed. David Held stated that no boundary walls were removed, only interior.
- Earl Lathrop, 21 Hough Road, stated that the Town should require daily inspections of the operation, then relax inspections if compliance is shown.
- Scott Taylor, 95 Wawecus Hill Road, stated that he was neither for or against the operation. Mr. Taylor admitted to visiting the site with the applicant's engineer and the Town Planner; he recused himself from the wetlands agency decision. Mr. Taylor explained he has knowledge of the property and his family has rights to use the property. Mr. Taylor asked why the town engineer was not present. It was answered that he was not able to make the meeting. Mr. Taylor asked about the documents provided to the town engineer and the Commission's ability to enforce erosion and sediment control. Sam Alexander later answered that the engineer reviewed site photos and all application materials. Sam Alexander also stated that the Planning & Zoning Commission requires erosion and sediment control plans to accompany all applications where disturbance of greater than half an acre is proposed. Mr. Taylor asked about the limits of disturbance and sequence of disturbance. Mr. Held stated that the stone wall in the center of the operation was removed and then after that surface stones were removed in the limits of disturbance. Mr. Held went on to describe how rough grading occurs with a backhoe bucket.
- Earl Lathrop, 21 Hough Road, commented that all truck traffic on Bishop Road has observed the speed limit.
- Scott Taylor, 95 Wawecus Hill Road, asked about the A and B soil horizons. Mr. Held described the soil horizons. These horizons are where excavation will occur.

Chairman Seder asked Commissioners for comments.

- Scott Barber remarked that no blasting is proposed.
- Seymor Adelman stated that the operation should be seasonal and avoid wet seasons.

- Manny Misarski commented on the amount of material leaving the site (perhaps 10,000 cubic yards per year) and stated that earth should be put back in place.
- Steve Coit stated that the applicant should correct bumps left in the ground by removing surface stone. Manny Misarski commented that one rock will be removed, then others right next to it. Mr. Held stated that they are not removing soil, just rocks. Brining in top soil may create a mess. Mr. Held explained that the site has revegetated very nicely since ceasing operation.
- Steve Gural asked if there was an issue on the site that anyone knew of.
- Scott Barber mentioned that he was comfortable waiving the A-2 survey requirement. The Commission discussed the bond. Sam Alexander explained that no formal bond estimate was given but the Inland Wetlands and Conservation Commission wanted the applicant to give a value based on unit values given, to encompass two phases.
- Steve Seder stated that it is difficult to anticipate what may occur from the operation and the Commission should protect against adverse effects. Mr. Seder stated that aspects of the plan still need to be discussed further with the town engineer.
- Scott Taylor, 95 Wawecus Hill Road, asked about the past timber harvest and stated that the decision by the Commission could inform action on a future application for the remaining portion of the operation.
- Scott Barber asked about noise mitigation. Mr. Held stated that the operation could be limited perhaps to 9:00am to 4:00pm. Scott Barber asked Mr. Held to ask the contractor about noise mitigation.
- The Commissioners discussed the possibility of the town engineer walking the site.
- Sam Alexander suggested that the project engineer and town engineer come to agreement as to acceptable engineering practices and site stabilization.

The public hearing was continued to the next regular meeting, October 14.

There was a five-minute recess prior to the remainder of the regular meeting. The meeting began again at 8:28pm.

2. Review and approval minutes:

a. August 12, 2021 regular meeting.

Scott Barber asked for distinction between him and Ray Barber to be made to the minutes in places where “Mr. Barber” is used. Scott Barber made a motion to approve the minutes with those changes. Nancy Taylor seconded the motion.

VOTE UNANIMOUS – MOTION APPROVED

3. Review correspondence pertaining to agenda items.

Sam Alexander noted new items received for the Steven Roy/Frank Adams subdivision application.

4. Hear the report of the Zoning Enforcement Officer.

Chairman Seder reported that there has been no progress made in regards to a hearing date for the Route 2 enforcement litigation.

Glenn Pianka reported on enforcement action under the Short-term Rental Ordinance.

5. New Business:

a. Pre-application discussion: Permitting for Bashon Hill Farms, LLC, 211 Bashon Hill Road, Bozrah, CT.

Wes Wentworth, P.E., L.S.S (Wentworth Civil Engineers) presented a pre-application by Bashon Hill Farms, LLC at 211 Bashon Hill Road. This was for pre-application discussion; this property was previously served enforcement orders by the Inland Wetlands and Conservation Commission and the Planning and Zoning Commission.

Mr. Wentworth overviewed the project, which is for farm field reclamation. Earth in reclaimed pastures will be sorted. Top soil will be screened placed back in fields. Rocks will be sold. There is also a farm pond proposed. Both the farm pond and the remainder of the activity received wetlands approval on September 2.

Sam Alexander remarked on the definition of excavation and asked the Commission how this project should be treated under zoning. There was agreement that this was an excavation and the activity was not exempt from the definition. Mr. Wentworth will submit an application, the Commission determined to hold a public hearing in October.

6. Old Business:

a. Revelation Church, 166 Bishop Road: Special Permit - Excavation. Applicant proposes to remove surface stones and boulders from 26.6 acres on the subject property.

The public hearing is still open. No action was taken.

b. Steven Roy & Frank Adams, Fitchville Road and Bashon Hill Road (Map 03, Lot 069): Four-lot residential subdivision.

Jason Reynolds (Reynolds Engineering Services) presenting changes to the application and status of past Commission comments.

- The applicant is in communications with Norwich Public Utilities (NPU) regarding the possibility of serving one or more of the lots with public water. Lots 1 and 2 are greater than 200' from a water main. Lots 3 and 4 may be required to be served by NPU if adequate pressure is available. If water cannot be provided, the applicant will seek a waiver from the Connecticut Department of Public Health (CT DPH). Well locations are shown for all lots. The applicant will conduct a flow test. Scott Barber asked for the plans to show that Lots 3 and 4 will connect to public water if they are able to be served.
- All areas of the lots are greater than 25 feet from the centerline of the road, therefore no land dedication is proposed per the road ordinance (#2012-2).
- Drainage is shown along Bashon Hill Road for driveways.
- Scott Barber would like to see all homes served by water. Mr. Barber believed it was a requirement of the zoning regulations that these lots be connected to water.
- There was discussion on monumentation. Monuments were provided at lot corners per the subdivision regulations. The regulations were discussed. Scott Barber asked for monuments to be set in place of iron pins at all angle points on a street line, so additional monuments for Lots 3 and 4.

- John Lamont is the appraiser that the applicant will use to determine the fee in lieu of open space amount. The Commission will await an appraisal and review the appraisal.
- There was discussion about whether or not NPU would allow hooking up to the water main.
- A note was added to the plan stating: “Proposed driveways conform to Bozrah regulations – driveways to be cleared to a width for emergency vehicles – driveway width = 12’.” There was discussion about emergency vehicle access. Sam Alexander gave the turning radius to the project engineer. The Commission asked that the Fire Marshall review the plans and suggested that the turning radii be added to the plans.
- There was discussion about whether the application was a subdivision or resubdivision. The Town Planner determined it was a subdivision.
- The Commission determined that they would wait until the next meeting prior to making a decision. The applicant was asked to address comments regarding monumentation, water, and turning radii for driveways. The applicant will also provide an appraisal for the Commission’s review.

c. GotSpace Data Partners, LLC, 268 Newbury Street 4th Floor, Boston, MA 02116: Zoning Regulation Amendments – Add new Section 9A (Technology Park District). Public hearing scheduled for September 15.

A public hearing is scheduled for September 15. No action was taken.

7. Affordable Housing Plan.

There was no update to be given. The Commission should review the draft plan.

8. Public Comment Period.

There was none.

9. Review general correspondence.

There was none.

10. Such other business as the commission may vote to hear.

Sam Alexander read a letter from Brandon Handfield, P.E. (Yantic River Consultants) on behalf of David J. Gesiak, LLC, requesting a 90-day extension to file mylar plans and comply with approval conditions for a 7-lot subdivision approved by the Commission. There was discussion. The applicant David Gesiak was in attendance. Manny Misarski made a motion to approve a 90-day extension of time, extending the deadline from September 29 to December 28. Scott Barber seconded the motion.

Manny Misarski commented on a possible violation of the definition of “family” in the zoning regulations; too many unrelated people living in one home.

Scott Barber asked about House Bill 6107. Sam Alexander explained the bill and stated that he would forward a past report he provided and give guidance to the Commission in October on future actions and regulation amendments. There was additional discussion about recreational cannabis.

Scott Barber made a motion to adjourn. Nancy Taylor seconded the motion. The meeting was adjourned at 9:45pm.

Respectfully submitted,
Samuel Alexander
Town Planner/SCCOG

SOUTHEASTERN CONNECTICUT COUNCIL OF GOVERNMENTS

5 Connecticut Avenue, Norwich, Connecticut 06360
(860) 889-2324/Fax: (860) 889-1222/Email: office@seccog.org

MEMORANDUM

TO: Town of Bozrah Planning & Zoning Commission
FROM: Samuel Alexander, AICP, Consulting Town Planner, SCCOG /s/
CC: Matt Grohocki, Revelation Church
David Held, P.E., Provost & Rovero, LLC
Matt Brown, P.E., Barton & Loguidice, D.P.C.
DATE: September 3, 2021
RE: **IWCC Decision and Planning & Zoning Commission Considerations**

IWCC Decision

The IWCC approved the application with conditions on September 2nd. Conditions are below:

- Stake phase limits with wooden, flagged stakes, three (3) feet tall, 50 feet apart along the wetlands buffer line.
- Proposed erosion and sediment controls must be depicted on plans.
- Posting of an erosion and sediment control bond, in an amount to be based on updated plans showing erosion and sediment control placement, taking into consideration given bonding recommendations by the Town Engineer of \$8/lf for silt fence and \$10/lf for hay bales, with additional costs for removal, and establishment of vegetation in disturbed areas. IWCC will hold and enforce the bond.
- Monthly staff inspections of the operation, unless a Wetlands Agent is not hired, in which case inspections shall be quarterly.

Town Engineer Review

The Town Engineer has been unable to conduct a full review of this plan. You may see his comments in memos dated August 19th and August 31st.

- This excavation is proposed to be conducted in a manner somewhat differently from others; however, I suggest that the applicant and the Town Engineer come to agreement on what the Town Engineer sees as plan deficiencies, prior to action by the Commission.

The level of detail provided in the plan does not seem to anticipate changes in grades or amounts of exposed area that may occur, nor does the application clearly define the amount of disturbance that may take place. This lack of detail does not allow the Town Engineer to determine the adequacy of proposed erosion and sediment controls.

Outstanding Comments and Regulation Requirements not Currently Met

- The applicant may request a waiver from the requirement of an A-2 quality survey. The applicant did not feel an A-2 quality survey depicting wetlands flagging, phase lines, etc. was necessary for this particular application. The applicant did, however, submit a previously prepared A-2 survey for this property, prepared in 2014.
- I strongly suggest the applicant and the Town Engineer come to an agreement as to plan details and submittals that will allow the Town Engineer to assess the quality of erosion and sediment controls.
- The applicant has estimated an *average daily* haul of two tri-axle truck loads leaving the site. The regulations ask for *average annual* removal. The Commission may determine whether the regulation has been satisfied. There is not to my knowledge any plan for tracking the amount of material leaving the site.
- The regulations allow for deviations from planned phases with a vote from the Commission. Deviations from planned phases are an expectation of the applicant based on the particular nature of their operation. The applicant may request from the Commission up-front approval of crossing phase boundaries during the operation.
- The regulations require that a completed excavation be covered with four (4) inches of topsoil and seeded with crop cover. I believe it is the applicant's stance that this would not apply to their particular operation. The applicant may wish to discuss this with the Commission.

Planning & Zoning Commission Decision Criteria

The Planning and Zoning Commission will hear this application as a Special Exception. General criteria for acting on a Special Exception are contained in Section 11.3:

1. The activity will not endanger public health, safety, and welfare.
2. The activity has adequate vehicle access and will not create a traffic hazard.
3. There are no adverse impacts to natural resources.
4. There are no adverse impacts to the character of the neighborhood or its property values.
5. The activity will not hinder the orderly/appropriate development of adjacent property.
6. Natural or structural screening is provided to minimize visual pollution.
7. Adequate provision is made for storm drainage to eliminate flooding, icing, or erosion problems in the vicinity.

Excavation activities also have separate decision criteria contained in Section 11.7:

11.7 Excavations. Excavations may be permitted by the Commission providing the detrimental effects of the activity are minimized and provided the future usefulness of the premises is assured once the

excavation activity is completed. The quarrying of stone or rock is specially prohibited in all zones. Permits for excavations shall not be issued for periods exceeding three (3) years and may be renewed only if it can be shown that the activity is being conducted in conformance with the conditions of the previously-issued permit and according to the approved Special Exception Application.

11.7.1 The application shall be in accordance with provisions of these Regulations (See Section 11.2) and shall show the total area of expected excavation, the sequence of excavation, existing and proposed contours at two-foot intervals, interior access roads, equipment parking areas, and temporary stockpiling areas for topsoil and other materials.

11.7.2 The application shall be accompanied by a written description of the proposed operation, including the average amounts of material expected to be removed each year during the period of the permit, the number and capacities of trucks to be used, a description of all equipment to be used on the site and how and where it will be stored, parked and serviced.

11.7.3 In all Residential Districts, excavation activity, including the loading and movement of trucks, shall be conducted only between 7:00 AM and 7:00 PM.

11.7.4 No access road or any part of the excavation or the parking of equipment shall be closer than twenty (20) feet from a property line, except that excavation may occur to the property line when the finish grade will be the same as the grade of the adjoining property along the property line.

11.7.5 Deviations from the planned phases of the excavation may be approved by vote of the Commission, provided such changes do not alter the general long-range plan of excavation for the site.

11.7.6 During the period of excavation, barricades, fencing and gates shall be erected as deemed necessary by the Commission for public safety.

11.7.7 Measures shall be taken to minimize dust blowing onto neighboring properties from any part of the excavation operation.

11.7.8 The application shall show provisions for proper drainage of the area of the operation after completion and no bank left at completion shall exceed a slope of one (1) foot of vertical rise in two (2) feet of horizontal distance. (2/1/12)

11.7.9 At the conclusion of the operation or of any substantial portion thereof, the whole area wherein removal takes place shall be covered with not less than four (4) inches of topsoil and seeded with a suitable cover crop.

11.7.10 No stone crusher or other machinery not required for actual removal of material shall be allowed, permitted or used. Drilling and/or blasting is prohibited. (7/15/11)

11.7.11 Before a permit is granted, the applicant shall post a surety company performance bond with the Town of Bozrah in an amount approved by the Planning and Zoning Commission as sufficient to guarantee compliance with the provisions of this section.

Member Municipalities:

Bozrah * Colchester * East Lyme * Franklin * Griswold * Borough of Jewett City * City of Groton * Town of Groton * Lebanon * Ledyard * Lisbon * Montville * New London * North Stonington * Norwich * Preston * Salem * Sprague * Stonington * Stonington Borough * Waterford * Windham