

**MINUTES OF PUBLIC HEARING
HELD BY THE PLANNING AND ZONING COMMISSION
AUGUST 16, 2021**

MEMBERS PRESENT:

In Person: Eric Prause, Chairman
Patrick Kennedy, Vice Chairman
Electronically: Michael Stebe, Secretary
Jessica Poland

ALTERNATES SITTING:

In Person: Julian Stoppelman

ALTERNATES PRESENT:

In Person: Teresa Ike
Electronically: Bonnie Potocki

ALSO PRESENT:

In Person: Megan Pilla, Senior Planner
Electronically: David Laiuppa, Environmental Planner/Wetlands Agent
Nancy Martel, Recording Secretary

The Chairman opened the Public Hearing at 7:00 P.M. The secretary read the legal notice when the call was made.

ASSOCIATION OF MUSLIM COMMUNITY- Request a special exception per Art. II, Sec. 2.02.06 for development of a 935 burial plot cemetery and future gravel roadway at 460 Hillstown Road. – Special Exception (2021-057)

Attorney Stephen Penny introduced himself. Attorney Penny stated that the parcel is 13.73 acres in size with 272 ft. of street frontage and is zoned Rural Residence. It has been used most recently as a golf academy and driving range. He noted that there is a single family residence on the property. The property abutters were detailed by Attorney Penny, who noted that they are separated by mature trees. Neither public water nor sewer is available to the site.

According to Attorney Penny, the natural drainage flow of the site is from the northeast corner towards its southerly tree-covered and sandy soil, which would not be affected by the cemetery proposal. He noted that there are no wetlands or watercourses that would be affected by this proposal. The Plan of Conservation and Development characterizes the area as Rural Agricultural, which in this instance extends along the entire westerly side of Hillstown Road to the Glastonbury town line and along a good portion of the easterly side of Hillstown Road as well. It is defined in the plan as “characterized by open or cultivated land with minimal physical

development, including agricultural land, wooded areas and meadows. Some single family large lot homes are present with either wooded or landscaped lots. Agricultural buildings and outbuildings such as barns and farm stands are common, as are prime agricultural soils. Residential densities are less than one unit per acre.”

The Plan of Conservation and Development, like the zoning regulations themselves, clearly contemplates the proposed minimal development cemetery use in this rural agricultural area, Attorney Penny stated, with the Town maintaining a cemetery further north in the same RR zone and on the same side of Hillstown Road.

Attorney Penny reported that the applicant, Association of Muslim Community, has the subject parcel under contract for purchase and a copy of the relevant portions of the Purchase and Sale Agreement are in the Planning Department’s file.

Attorney Penny went on to provide the details and an explanation of the pertinent regulations that apply to the applicant’s special exception application in a Rural Residence zone.

According to Attorney Penny, the proposed use is a 935 plot cemetery of 3 ft. x 8 ft. burial plots, each separated by 2 ft. The existing infrastructure is adequate to serve the use and will not require any site improvements until the proposed gravel driveway to access the westerly burial plots becomes necessary in the future. At that time, a detailed construction sequence, and an erosion and sedimentation control plan, would be submitted for approval. It is anticipated that the cemetery will be home to 40 or 50 burials per year, each typically lasting approximately 30 minutes and occurring every day of the week, including weekends, during the daylight hours. Each burial is expected to generate approximately 15 vehicles. The existing access drive would remain closed except for burial services. Attorney Penny explained that the existing residential structure on the parcel is proposed to serve as a caretaker’s residence and cemetery support building. If the application under consideration is approved, the use of the building will require the applicant to return to the Commission for approval of a regulatory amendment that would carve out an exception based on the cemetery use, since Art. II, Sec. 1.03 of the regulations prohibits an accessory building to be used for residential occupancy. Additionally, circumstances on the ground do not permit a subdivision that would separate the onsite house from the cemetery. An existing water well that was used to irrigate the golf practice range will be abandoned.

Andrew Bushnell, Bushnell Associates, Professional Engineer and Licensed Land Surveyor, introduced himself, noting that he prepared the site plan. Mr. Bushnell displayed the site plan, giving the details of the property. He explained that there will be no disturbance of any of the land aside from each individual grave site. The existing driveway and parking area will be utilized. Hillstown Road is rated as a collector roadway, and 15 cars once or twice a week will not impact the traffic on that road. After soil testing, it was determined that it is basically sand after 6” of topsoil.

Mr. Prause questioned the location of the well to be abandoned, which Mr. Bushnell explained in detail.

Mr. Prause noted that the gate will be closed when a burial is not in process and speculated that people would want to visit burial sites. Mr. Bushnell assured him that the gate could be opened by appointment by the caretaker.

Mr. Stoppelman questioned the reason why the well will be abandoned. He thought the area may need to be watered. Mr. Bushnell informed him that the well would be abandoned because it would be within 75 ft. of burial sites. Apparently, the well never produced enough water.

Mr. Stebe referred to the 19 parking spaces plus the handful of spaces and questioned what plans are in place to address a highly attended funeral. Mr. Bushnell assumed people would park in the driveway area as they do in other cemeteries. Mr. Stebe noted that the plan covers 50-60% of the current driving range and asked if the Association would expand beyond the currently-planned plots. Ms. Pilla responded, though it was inaudible.

Ms. Potocki observed that there appear to be pull-offs in the bituminous driveway, which Mr. Bushnell confirmed. She questioned how much more area would be suitable for an expansion of the burial plots. Mr. Bushnell commented that the area in the clearing is suitable for expansion, and there are other areas as well. She further questioned whether there would be tree clearing if an expansion was proposed, and Mr. Bushnell assured her that would not happen for a very long time.

Attorney Penny addressed Art. IV, Sec. 20, Special Exception Criteria, as they relate to the application and the Plan of Conservation and Development. He reported no Staff comments that would preclude a favorable decision. The proposed cemetery is a low-impact use, a special exception use in the zone, compatible with the immediate neighborhood and is contemplated by the Plan of Conservation and Development. Attorney Penny remarked that all the factors suggest the correctness of an approval of the application.

Mr. Stebe stated that, in the Rural Residence regulations for the cemetery special exception, it asks for approval from the State Department of Health. He asked if such an approval was received.

Attorney Penny responded that two individuals at the Department of Public Health reviewed the proposal. An engineer with that agency only identified what the statutes are that control it. The statutes are the controlling factor, and how they approach the subject of public safety in this context is to indicate what separation distances have to be from wells and residences. That engineer also suggested that there should be some concern about vertical separations between ledge and ground water. He added that his presentation included the actual separation distances both from wells and from residences, and indicated that the separation distances equal or exceed the requirements of the statutes. The second reviewing individual was a supervisor in the drinking water section, who concluded after reviewing the site plan that there were no troublesome aspects of the application.

Mr. Prause referred to Attorney Penny's review of the special exception criteria making reference to the Plan of Conservation and Development and how cemeteries are contemplated. Mr. Prause did not note in the POCD any specific reference to a plan for cemeteries.

Attorney Penny explained that it does not use the word “cemetery,” but refers to low-impact development, which he believes this will be. He thought it is important that the regulations only permit cemeteries in the Rural Residence zone and thus, clearly cemeteries must be contemplated as compatible with the POCD.

Mr. Prause commented that the reason this comes before the Commission for approval is because the regulations state, “A cemetery may be developed at the discretion of the Planning and Zoning Commission.” As such, he questioned what the Commission should be considering.

Attorney Penny responded that the regulations set forth the three areas of focus:

- 1) The most significant is the requirement that the application be reviewed by the Department of Public Health, which is merely applying the separation distances set forth in the statutes.
- 2) Lighting is a specific criterion for a cemetery.
- 3) The Commission should review and approve the site plan as an appropriate location of the use.

Mr. Stoppelman voiced an inaudible question.

Mr. Tarek Ambia explained that the monument on each individual grave will be similar to other cemeteries. It will either have a foundation about 18” above ground or will be flat on the ground.

Mr. Stoppelman asked if there are any religious restrictions in the Muslim faith.

Mr. Ambia reported that is one of the reasons why they want a cemetery in town. The religious practice is to bury a body as soon as possible. There is a mosque in town and a cemetery is the last thing needed for a growing Muslim community. Mr. Ambia explained that the burial is usually done the day of death as long as it can be done in daylight. Nothing will be done after hours. The body is in three sheets of white cloth with no chemicals used and buried 4 ft. down.

Ms. Pilla commented that there are no outstanding review comments from Staff. A special exception for a cemetery does require review by the Department of Public Health. She spoke to someone at DPH, who confirmed that they do not approve public cemeteries; they only have jurisdiction to approve private cemeteries, such as a family cemetery on private land. Ms. Pilla explained that the Town’s Health Department worked closely with DPH to ensure that there were no concerns. Based on the fact that DPH found no regulatory concerns and since their regulations are designed to protect the health and safety of the public, Town Staff is comfortable with the recommended separation distances prescribed by DPH, which are met in the proposed plan.

As Mr. Bushnell mentioned, there are known wetlands on the south end of the site, stated Ms. Pilla. He did show the location of the stream, but there was no official wetlands delineation done as part of the application. Town Staff is comfortable with that, as the known wetlands are well away from the proposed burial areas. As Mr. Bushnell pointed out, for the one area that the Town Environmental Planner was unsure about, Mr. Bushnell tested and determined that there

are no wetlands there. However, she added, if the applicant were to come back for an application for a modification to a special exception within the regulated area, a wetlands delineation would be required.

Mr. Laiuppa reported that he reached out to Mr. Bushnell because there is a low contour adjacent to the access road. He noticed that there were no wetlands on the original plans submitted and asked Mr. Bushnell if a formal delineation had been done. However, Mr. Bushnell stated that area in particular would be checked, and confirmed it is not wetlands. Mr. Laiuppa had gone to the site and agreed it is not wetlands. However, when walking down to the stream, there are wetlands adjacent to the stream that are not shown on the plans. He paced off the distance from the upper edge of the wetlands and they are well beyond 100 ft. from the proposed activity. Mr. Laiuppa stated that, in the future, if work is proposed south of the existing proposed plan, he would recommend a formal delineation on the site.

Mr. Prause asked Mr. Laiuppa, if there was an expansion and a special exception modification, whether the Commission would need to review the wetlands to ensure it is not encroaching.

Mr. Laiuppa stated that he does not believe they would encroach directly into the wetlands, but depending on how far south they go, they could go into the upland review area. He estimated that they are about 250 ft. north of the upland review area of the wetlands that were not delineated.

Ms. Karen Dundon, whose home is at 436 Hillstown Road, which is two houses away from the proposed cemetery, stated that she is also the property owner of 428 Hillstown Road and 146 Still Field Road, totaling about 35 acres which abut the property at 460 Hillstown Road. Her family has owned and acquired the properties since the 1920s and she has lived there her entire life. Ms. Dundon reported that, over the years, the land was used for farming, selling vegetables and raising livestock.

Ms. Dundon reported that her property is an active farm, raising products being consumed by people and animals. A month back, she noted, a couple hundred bags of corn were picked and sold by Botticello Farms. She said that it is her understanding that the burial plots can be placed up to the property line border. Ms. Dundon is concerned about laws and regulations for interment into the soil protecting well water systems, nearby brooks and streams, and abutting farm soil. She questioned whether there will be soil testing. It is considered a public cemetery which is not regulated by the Manchester Department of Health, and thus the department is unable to impose any limitations. Since the burials will occur 4 ft. below ground, she is concerned about the wildlife that may dig up the bodies.

The current proposal is asking for 935 plots, remarked Ms. Dundon, using approximately 1.5 acres of the driving range. Looking at the diagram, she noted that leaves a lot of remaining open land. According to her understanding of the State regulations, if a cemetery has been in existence for 5 years, they can petition again for an additional building and/or any additional plots. Ms. Dundon contemplated whether the cemetery could be upwards of 3,000 plots. She noted that Hillstown Road is a main street connecting East Hartford and Glastonbury residents to Manchester and the I-84 and I-384 interchanges. Even with all the improvements that have been

made to Hillstown Road, it is extremely busy. She questioned how the vehicles which are not able to fit into the cemetery road will not park on Hillstown Road. Ms. Dundon expanded on her concerns about parking for the cemetery as well as the impact to the area property values.

Mr. Glen Blumenstein, owner of Manchester Funeral Home, 142 East Center Street, introduced himself. At the behest of the petitioner, Mr. Blumenstein visited the site when the applicant's engineer was present and did a number of site dig holes. The site proved to be uniquely suited for the petitioner's purpose. It is exceptionally private, and the sandy loam will prohibit contamination issues. Mr. Blumenstein stated that the area is set quite a bit back from the road, allowing for an inordinate number of vehicles onto the grounds safely without obstructing traffic. Through recorded video, Mr. Blumenstein discussed the excavations with current excavators of cemeteries in the area who felt this situation is very good, especially with the intention of the petitioner to be at 4 ft., which greatly exceeds the State requirements. He added that most of the cemeteries in Manchester do abut residential properties.

Ms. Sharon Warner, 619 Hillstown Road, introduced herself, noting that her husband, Philip MacVane, is the owner of the property. She commented that there are a number of cemeteries in Manchester and surrounding towns, and questioned the capacity of existing cemeteries and whether there is a shortage of burial spaces. Hillstown Road is very busy, she stated, and the speed of the traffic has increased since the recent road work. Ms. Warner reported that she and her husband repeatedly witness accidents and near accidents on Hillstown Road from their front yard. It is her opinion that, if this application is approved, it should be conditional on a 3-way stop being installed at the intersection of Hills Street and Hillstown Road, which is where the bulk of accidents occur. She also inquired about the tax impact for the Town as well as whether there are any plans for Town-owned property currently growing corn. Additionally, she questioned the plan for the buildings on the property and whether there will be religious services on the site.

Mr. Anwar Hossain stated that he is not a resident of Manchester, but has worked in Manchester and used many businesses and services in town. He wanted to reflect on a personal experience that is very relevant to this application. Recently, his sister, a Manchester resident, passed away. Although Manchester has a facility to prepare the body for burial, the body had to travel almost 30 miles to Enfield, where the nearest Islamic cemetery is located. Most of the journey was on the highway, which he stated is not safe for family and friends.

Mr. Hossain noted that, two years ago, Manchester granted a place of worship for the Muslim community and the cemetery will provide the deceased a place of rest in the town.

Mr. John Dundon, 436 Hillstown Road, introduced himself as having been a resident since 1988. He reported that their property is out of the boundary for the well water. That is based on the assumption that nobody knows what happens really deep in the earth unless we know what is under us. Mr. Dundon commented that the water could come under the landfill and residents are drinking it. He noted that it is a perfect spot, very peaceful, and questioned why other cemeteries require a vault.

Ms. Diane Tatelman, 140 Still Field and 428 Hillstown Road, reported that she is attending for fact-finding. She referred to the stated 20 people per visit, but Mr. Hossain said he would like to visit more often. If the gate is closed, and people walk around it to visit graves, she asked where drivers will park their cars. Ms. Tatelman commented that most people drive on the highways to bury their people. She observed that the well will be closed off but most cemeteries have water for the grounds. The Town requires the Health Department, she reported, to review and approve, but the Health Department does not ever do that; therefore, there is a requirement on the books that can never be satisfied.

Mr. Bushnell addressed the question about parking, stating that the gate is about 80 ft. off the road and the driveway is quite wide up to there. There are shoulders to park off the driveway, and the first part is graveled to allow access to the field. He added that hundreds of cars could be parked on the field. There is another well on the property at the existing house, which could be utilized to carry water to the plots or a water line could be run.

Attorney Penny acknowledged that he does not know the remaining capacity of the cemeteries in town. He pointed out that there are two Catholic cemeteries in town and a Jewish section of East Cemetery. Attorney Penny reported that he was unsure, but thought the Catholic cemetery only buries Catholics. It is his opinion that the Muslim community has grown to a level where a Muslim cemetery is appropriate. Any use other than burials will not be permitted, according to Attorney Penny. Attorney Penny added that the Town put a cemetery on Hillstown Road not many years ago. He reported that there is a Town Traffic Engineer who could be consulted regarding the Hills Street/Hillstown Road intersection.

Mr. Prause referred to a comment regarding buffering. He stated that the veterans' cemetery further north on Hillstown Road has a row of arborvitaes and he speculated that may not be a good idea because that cemetery should be highlighted. He questioned whether there had been a discussion about buffering on the site because there are residential properties to the north.

Attorney Penny responded that, when looking at the site plan, there is a considerable existing mature wooded buffer, not just on the applicant's property. He added that he drove Still Field Road and woods were behind the homes that would abut the property. Looking carefully at the site plan, Attorney Penny reported that goes all the way around. The three single family residences abutting the site with frontage on Hillstown Road all have a considerable depth of woods behind them. He added that there is no cemetery in town with a parking lot.

Mr. Prause noted a general concern about adjacent properties with agricultural operations. He speculated whether the Commission should consider any guidance on potential impact to agricultural soil.

Attorney Penny's opinion was that there is no need to be concerned about the agricultural soil.

Ms. Potocki was of the opinion that there are a number of open-ended questions, and in her opinion, the Commission should continue the meeting to another time.

Mr. Prause remarked that Ms. Potocki can speak as a member of the public, and is welcome to ask questions as such.

Ms. Potocki questioned whether the soil on the plan is mapped as prime farmland. Attorney Penny stated that he does not recall seeing mapping that would identify soil types as prime farmland. Ms. Potocki responded that there is mapping for prime farmland in the state of Connecticut through NRCF. He was curious how mapping that would be useful on the property, to which Ms. Potocki remarked that it would be loss of prime farmland. Attorney Penny reminded Ms. Potocki that the site is not used as farmland.

Ms. Pilla stated that she will refrain from answering any questions in the Zoom chat since this is a public hearing.

Ms. Potocki asked if the Staff has gone to visit the site to determine if there is delineated parking and whether it would meet the Town's parking standards. Ms. Pilla replied that they have not gone to the site to look at the parking specifically; according to the plan it appears not to be striped. Ms. Pilla stated that there are no regulatory requirements for minimum parking for cemeteries and Staff has no concerns.

Mr. Stebe reminded Town Staff that there was a discussion a few meetings back about new laws and regulations that went into effect after the last State legislative sessions. One main takeaway involved the non-defined, open definitions of compatibility and how the regulations need to cite very specific items, or delete the compatibility items. He noted the special exception criteria, especially Paragraph C which notes it should be attractive and suitable, which is an open-ended point. Mr. Stebe felt that paragraph does not have a large bearing on this discussion tonight as the Commission is not reviewing buildings. He questioned Town Staff if the phrasing in that paragraph is the type of thing the Commission would have to specifically state that they are reviewing it in light of the updated State laws while revamping all the regulations.

Ms. Pilla stated that the general answer is yes. In clarification, she remarked that recent State legislation passed requires that the Town go through its zoning regulations and make sure to limit the use of terminology that requires development to be of a certain character for the purposes of limiting the possibility of discrimination. In general, Ms. Pilla noted that task has not been finished and she has not looked at that paragraph in particular in this lens. Those are the types of terms, such as attractiveness, that have no enforceability, that are being targeted with that legislation. Without getting into detail, having not completed the effort, she said that requirements for attractiveness or character are the types of things that legislation is aiming to avoid.

Mr. Prause questioned whether there will be any use for the ticket house currently on the property. He asked if there will be any noise or nuisance that may occur during services. Mr. Prause inquired about visitors to the site, and wondered if they would need permission from the caretaker.

Mr. Tarek Ambia stated that there is one small shed, currently used as an office, which will be used for storage of equipment. He reported that they do not need an office at the site, though the

house will be used for the caretaker. Mr. Ambia remarked that there will be no noise; their service actually takes place at the mosque and only the immediate family goes to the cemetery. The house will be vacant until they determine how they will use it. There are two driveways to the house – one goes up the hill and there is another that goes around the house. He thought that 8-10 cars could park before even reaching the gate. Otherwise, they would have to make an appointment in the short-term until the caretaker is on the property. He added that the current owners have not watered the lawn in the last five years.

Mr. Prause sought clarification about the language in the Town's regulations about asking for the State Department of Health's approval, which may be a good change for the Commission to make. Currently, they really only have input on approval of private lot cemeteries and the Commission may need to clarify that it would be reviewed by the State Department of Health.

Ms. Ike clarified the change Mr. Prause suggested. The reason it is there is so they can come back to tell you we do this for private and this for public cemeteries. The intention is to make you go through the process.

Ms. Ilga Paups, 444 Hillstown Road, introduced herself. She explained that her one acre of land is a little section and that the entire other property makes a big L around her property. At 444 Hillstown Road, up until this evening, she has been 95% convinced that she would be happy to have the proposed cemetery as her neighbor. Using this land as a sacred place would be the optimal way to preserve this land. Acknowledging that she should have put forth an investigation, she questioned whether the bodies would be embalmed. She had no idea that they would not be in a casket. Acknowledging that the bodies would not be in some sort of casket, she questioned how a body goes back to earth. She stated that, many years ago, they buried a dog in her front yard and a couple of years later there was an indentation in the soil. She stated that she loves the idea but she is very concerned about what could happen to the runoff to her well.

Mr. Glen Blumenstein, Manchester Funeral Home, expressed that the public has brought forth some very important questions. The State of Connecticut does not have, nor does any state in the United States have, any laws that require the use of an outer burial container for burial. The standard outer burial container that is used is a rough concrete box. The boxes allow the water table in and out of the box and are used for the cemetery's purposes. It allows the cemetery to remain as flat as possible while heavy equipment is frequently running over the graves, and allows the cemetery to have less time filling back in the grave as they might naturally fall and collapse. A traditional Islamic burial does not remove any of the original soil that was in the grave away. They actually return all of it back to the grave, leaving a small mound on the top and allowing that to temper back down for a more complete filling of the grave.

Mr. Blumenstein stated that there was a question about existing cemeteries and potential uses and purposes. Most of the cemetery property in Manchester is owned and operated by the Town of Manchester. There is a section of East Cemetery that has been set aside for Beth Shalom B'nai Israel at East Cemetery. The burials in the cemetery are frequently outside of the normal operating hours and have created difficulty for cemetery operations. In his opinion, the Cemetery Commission would greatly appreciate not being in a position to have any other

uniquely religious section in their cemeteries. Furthermore, he did not believe that there are any spaces large enough in any of the current Town cemeteries to accommodate what is proposed. Traditional Islamic burial is done with shrouding, a wrapping of the body. Connecticut law very directly and uniquely addresses how this should be done. Connecticut mortuary practice very specifically references the wrapping of the body three times in a linen shroud. Embalming is outside of the normal practice of the Islamic faith, which allows for a very quick and chemical-free decomposition of the body. He added that the great concern about soil contamination from cemeteries comes from embalming fluid and potential metal contamination when metal caskets are used. Neither of those concerns exists in this situation. The last concern is from bodies that have a communicable disease. Bodies with a communicable disease are required by State law to be handled differently, to be uniquely reported, and those bodies would have to be embalmed or buried in a manner different than what is proposed here. Mr. Blumenstein reported that the Islamic community learned very well over the past year. Immediately, their leadership came together and created a new set of standards for dealing with burial of those with a communicable disease, which entailed being buried in a heavy gauge plastic pouch.

Mr. Harun Rashid, 40 Lexington Drive, introduced himself, stating that he has been in the U.S. for more than 30 years. He stated that, when he arrived, he believed America was a melting pot. In his experience, Manchester is an example of it. He thanked the residents of Manchester and stated that it is a great honor to be here.

Mr. Prause referenced the impact on agricultural soils and questioned whether there is any guidance on that. Mr. Blumenstein acknowledged that he is not a soil expert. He said their practices and regulations in the industry have always been concerned with ground water. In the U.S., burials typically take place 4 ft. below ground level.

MOTION: Mr. Kennedy moved to close the public hearing. Mr. Stoppelman seconded the motion and all members voted in favor.

The Public Hearing meeting was closed at 8:55 P.M.

I certify these minutes were adopted on the following date:

September 1, 2021

Date

Eric Prause, Chairman

NOTICE: A DIGITAL RECORDING OF THIS PUBLIC HEARING CAN BE HEARD IN THE PLANNING DEPARTMENT.