

**PLANNING AND ZONING COMMISSION  
REGULAR MEETING – MINUTES  
WEDNESDAY, SEPTEMBER 14, 2011 – 7:00PM  
NEW HARTFORD TOWN HALL – 530 MAIN STREET**

**PRESENT:** Chairman James Steadman, Ken Heyse, Dan LaPlante, Gil Pratt, Ted Stoutenberg; Land Use staff Zoning Enforcement Officer Rista Malanca, CZEO, and Recording Secretary Stacey Sefcik.

**ABSENT:** Alternates David Jones, David Krimmel, and Peter Ventre.

Chairman James Steadman called the meeting to order at 7:05PM. All regular members were present and seated for the meeting. The proceedings were recorded digitally and copies are available in the Land Use Office in Town Hall.

**1) PUBLIC HEARINGS:**

**A. Town of New Hartford – Zone Change from R1.5 and IP Zone to make lot all IP Zone, 59 Industrial Park Road.**

The Recording Secretary read into the record the legal notice for this matter. Ms. Malanca explained that as a result of the research done regarding the Whittemore property earlier in the year, she had also discovered a similar error with regard to the Town's property at 59 Industrial Park Road. She reminded the Commission that Mr. Whittemore's property had been located within 3 different zones, and the Commission had approved his request to make the entire lot R15. Similarly, Ms. Malanca discovered that the Town's salt shed was located within both the R1.5 and IP zones. She explained that the Town was requesting that the lot be changed to all IP Zone.

Hearing no questions from the Commission, Mr. Steadman opened the floor to public comment. However, no one present expressed a desire to speak. Ms. Malanca explained that all legally required noticing to abutting property owners had been completed within the proper timeframe.

**MOTION** Mr. Heyse, second Mr. Stoutenberg, to close the public hearing in the matter of **Town of New Hartford – Zone Change from R1.5 and IP Zone to make lot all IP Zone, 59 Industrial Park Road**; unanimously approved.

**2) PENDING APPLICATIONS:**

**A. Town of New Hartford – Zone Change from R1.5 and IP Zone to make lot all IP Zone, 59 Industrial Park Road.**

**MOTION** Mr. Stoutenberg, second Mr. Heyse, to approve the requested zone change in the matter of **Town of New Hartford – Zone Change from R1.5 and IP Zone to make lot all IP Zone, 59 Industrial Park Road**, finding that it is consistent with the Plan of Conservation and Development, with an effective date of the day after the date of publication; unanimously approved.

**3) NEW APPLICATIONS:**

**A. John and Linda Casey, 170 Main Street – Site Plan Modification to add an accessory structure.**

Ms. Malanca explained that Mr. Casey stated he might be late and had requested this matter be moved to the end of the agenda.

**MOTION** Mr. Stoutenberg, second Mr. Pratt, to amend the agenda to move item 3A to the end of the agenda and continue with the remainder of the agenda as written; unanimously approved.

**B. Blackhammer, LLC, 283 Main Street – Site Plan Modification to allow outside storage and change location of signage.**

Karl Nilsen addressed the Commission on behalf of the applicant. Mr. Nilsen stated that the applicant proposed to make 3 changes to the previously approved site plan: (1) Create a landscaping storage area of 2600 square feet at the western side of the property; (2) Put the location of LP Gas pads on the site plan; and (3) Remove existing sign and install a new 60 square foot sign at a different location.

Mr. Nilsen stated that the landscaping storage area was mostly paved and that only fencing material and woodchips would be stored there. He noted that the contractor had been storing items there already, but requested a site plan modification after an inspection by the Zoning Enforcement Officer. Mr. Nilsen stated that there were also approximately 4-6 illegal signs throughout the property that would be removed, and one conforming 60 square foot sign would be installed in their place. Ms. Malanca noted that bollards should be installed around the LP tanks. The Commission then briefly discussed what would happen when and if the new regulations were adopted. Ms. Malanca said that a second sign could potentially be permitted by special exception. Mr. Nilsen stated that in that case, the applicant would likely want to place a sign at each end of the property along Route 44. Ms. Malanca then asked how high the stacking of landscaping materials would be; Mr. Nilsen said that it would be no higher than the fence line.

Several members of the Commission noted complaints they had heard about the internal condition of the building. Ms. Malanca explained that that would not be within the Commission's purview. She stated that structural complaints should be directed to the Building Official, and mold complaints should be forwarded to the Farmington Valley Health District.

**MOTION** Mr. Stoutenberg, second Mr. Pratt, to approve the application in the matter of **Blackhammer, LLC, 283 Main Street – Site Plan Modification to allow outside storage and change location of signage** with the following conditions:

1. Storage is not to be stacked any higher than 6 feet and must be screened by the fence.
2. All signage, other than permitted "for lease/rental", must be removed prior to the installation of the new 60 square foot sign.
3. Bollards must be installed around all LP tanks.
4. Landscaping materials to be stored onsite must only be accessory to the business which has leased space and must not be for retail sale.

<b>IN FAVOR:</b>	Mr. Pratt, Mr. Steadman, and Mr. Stoutenberg.
<b>OPPOSED:</b>	Mr. Heyse and Mr. LaPlante.
<b>ABSTAINING:</b>	None.

The motion carried 3-2-0.

**4) MEETING MINUTES:**

**A. July 13, 2011 regular meeting.**

The Commission agreed to table this matter to the October 12, 2011 regular meeting.

**5) ANY OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION:**

**A. Susan Suhanovsky, 277 East Cotton Hill Drive – Shared driveway to serve 277 and 279 East Cotton Hill Road – Modification to subdivision to relocate driveway and driveway easement.**

Phyllis Marcantonio of 279 East Cotton Hill Road addressed the Commission. Ms. Marcantonio explained that Ms. Suhanovsky was not able to be present. Ms. Malanca explained that the shared driveway had already been constructed; however, it was not as per the original site plan. She said that the driveway could not be approved until the applicants could prove that it met the requirements of the Town's driveway ordinance.

Ms. Malanca stated that she had received engineered plans from the applicants; however, they had not been reviewed by the Town Engineer. She stated that there were areas over 15% grade that were to be paved and other areas that were at least 12% grade. The Commission asked whether the driveway was completed, and Ms. Marcantonio stated that it still required some minor grading and drainage before it was finished. Due to the steep grade of the driveway and the note on the original plans stating that the driveway was only to be built as indicated, several members of the Commission expressed a desire to have the Town's engineering consultant review and approve the plans.

Mr. Pratt questioned why the homeowners had deviated from the approved plans; Ms. Marcantonio explained that the driveway was already in its current location when she purchased the property. She noted that the driveway deviated from the approved plan largely at the top of the driveway, where there was not a large “J” turn as indicated on the plans. She noted the length of time it had taken to finalize the driveway, and the Commission discussed how to proceed once their engineering consultant had reviewed the plans.

**MOTION** Mr. Heyse, second Mr. Stoutenberg, to refer the application for review by the Town's engineering consultant and to authorize the Zoning Enforcement Officer to approve the requested modification if the revisions are deemed acceptable by the engineering consultant; unanimously approved.

**B. Troy and Lori LaMere – Modification of approved 5-Lot Resubdivision – 20 Shady Brook Extension “50 Acre Woods” Subdivision – Request to modify fee in lieu of open space.**

The Commission agreed to continue this matter to the October 12, 2011 regular meeting at the applicants' request. Ms. Malanca noted that the Commission's attorney would be present at this meeting.

**C. John Mattera, 373 Main Street – Discussion of zoning complaint.**

Mr. Mattera addressed the Commission regarding a nuisance complaint against the residents of 367 Main Street. He distributed pictures of the property as well as of the neighborhood overall. Mr. Mattera noted previous complaints regarding pit bulls chained to trees in their front yard and 4 unregistered vehicles. He explained that the residents at 367 Main Street now had chickens, roosters, and ducks that created a significant odor, generated a great deal of noise, and routinely wandered into the street. Mr. Mattera stated that he had made a complaint to the Zoning Enforcement Officer and was told by her that the residents have either not answered letters and phone calls or when they did, informed her that they did not have any roosters at all. He stated that First Selectman Dan Jerram had visited the neighborhood and noted the noise and odor. Mr. Mattera then played a tape he had recorded of the roosters. He noted that 17 residents of the neighborhood had signed on to the nuisance complaint, and he requested that the Town enforce its regulations stating that the coop must be at least 100 feet away from all property lines.

John Casey, 170 Main Street, addressed the Commission. He stated that he did not live in the neighborhood but he walked through it frequently and said that there was a great deal of noise from the roosters that could be heard all the way at the farmers' market. Abbey Burke of 41 Church Street said that the noise was constant throughout the night and impacted her ability to sleep. Denise Mattera, 373 Main Street, also addressed the Commission explaining that she worked from home and heard the noise constantly during the day. Mary Ann Gunning of 45 Church Street next addressed the Commission expressing concern about the odor from the poultry as well as the danger of having them constantly walking through the street. Nora Pappalardo of 19 Church Street and Donna Berman of 41 Church Street also expressed concern regarding the noise throughout all hours of the night. Ms. Berman stated that she had contacted the police and had been told that this was not an issue within their purview.

Ms. Malanca explained to the Commission and the residents that the Town's regulations do not currently prohibit roosters or chickens; there was only a regulation regarding where the coop could be located and this may possibly be changed if the draft regulations were adopted. She stated that she had attempted several times to contact the residents of 367 Main Street and had ultimately even tried unsuccessfully at their place of business. Ms. Malanca stated that she had sent a certified letter the previous week, which the residents had received the Friday before the meeting; to date they had not responded.

Les Archer, Animal Control Officer for the Town, next addressed the Commission. He explained that he could not enforce complaints about roaming chickens, but that he would be attending a statewide conference the next day and would discuss this matter to see if there were any other ways to address this issue. The Commission reviewed the current and proposed regulations and concurred with the Zoning Enforcement Officer's assessment. Ms. Malanca advised the neighbors that they could sue the residents in civil court in order to address this issue.

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**D. West Hill Pond Stormwater Survey.**

Ms. Malanca briefly reviewed the results of the West Hill Pond stormwater survey commissioned by the West Hill Pond Association (WHPA). She explained that the WHPA was planning to ask the Commission to require stormwater management plans for any activities within the R-4 zone

**3) NEW APPLICATIONS:**

**A. John and Linda Casey, 170 Main Street – Site Plan Modification to add an accessory structure.**

Mr. Casey passed around his cell phone, which contained pictures of the proposed location for the accessory structure. He explained that he was planning to build a shed to store the trucks and trailers loaded with his canoes and kayaks. Ms. Malanca stated that Mr. Casey had submitted proof that the proposed site was outside of the wetlands, flood plain, and Farmington River Overlay District. Mr. Casey explained that at this time he only wanted to build a 50 foot by 50 foot pad with a 4-foot frost wall; he was still determining the exact type of shed he wanted on the site. Ms. Malanca noted that accessory buildings were not permitted in commercial zones so she was unable to issue a zoning permit without a site plan modification. Mr. Casey stated that he had a 12 x 24 foot shed on site now; however, after the construction of this new shed, total lot coverage would still be less than 7%.

**MOTION** Mr. Stoutenberg, second Mr. Pratt, to approve a 50 x 50 foot pad and foundation walls for a future building, the information about which the applicant must bring before the Planning and Zoning Commission for architectural review prior to installation; unanimously approved.

**MOTION** Mr. Stoutenberg, second Mr. Pratt, to adjourn at 9:00PM; unanimously approved.

**Respectfully submitted,  
Stacey M. Sefcik**