

**PLANNING AND ZONING COMMISSION  
REGULAR MEETING – MINUTES  
MARCH 12, 2014 – 7:00 PM  
ANN ANTOLINI SCHOOL – CONFERENCE ROOM – 30 ANTOLINI ROAD**

**PRESENT:** Chairman James Steadman, Daniel LaPlante, Gil Pratt, Ted Stoutenberg; Alternates Robert Moore and Martin Post; Land Use staff Certified Zoning Enforcement Officer Rista Malanca and Recording Secretary Stacey Sefcik.

**ABSENT:** David Krimmel; Alternate Peter Ventre.

Chairman Jim Steadman called the meeting to order at 7:00PM. All regular members present were seated for the evening. Alternate Martin Post was seated for David Krimmel. The proceedings were recorded digitally and copies are available in the Land Use Office.

**1. PUBLIC HEARINGS:**

**A. Brian Sulvester, 21 Elaine Way – Special Exception per Section 3.6C for an Accessory Dwelling Unit.**

The Recording Secretary read into the record the legal notice for this matter. Brian Sulvester addressed the Commission and submitted proof of notice to abutting neighbors. Mr. Sulvester explained that he planned to build a new home with a 3-car garage, and he wanted to construct an accessory apartment for his parents in the space above the garage. The plans he originally submitted for his Zoning Permit included a bedroom suite in this area; however, his parents decided they wanted a separate kitchen as well, which thereby necessitated a special exception permit for an accessory apartment. Mr. Sulvester referenced the construction plans stating that the appearance of the house from the road would be of a single-family dwelling. The Commission reviewed the submitted plans.

Ms. Malanca questioned whether Mr. Sulvester planned to live onsite, and Mr. Sulvester responded affirmatively. He noted that the house would be set back away from the road. He stated that he had no plans to rent the apartment area, and it was designed to be part of the entire house. The apartment would have its own door closing off the area; however, it would be accessible from the main door of the house. Ms. Malanca noted that the lot was 24.9 acres; therefore, the lot was well in excess of the 40,000 square feet required according to Section 3.6C. The apartment was planned to be 1098 square feet as per the plans submitted; the house in total was planned to be 3020 square feet. Therefore, the apartment would be 30% of the total house area. Ms. Malanca noted that the garage would have 3 bays; therefore, there was adequate parking as required by Section 3.6C.

Ms. Malanca explained that the zoning permit for the new house had been approved already; however, the change of the area over the garage from a bedroom area to an apartment necessitated the special permit. The Farmington Valley Health District had already approved the plans when the area was planned as a bedroom. Ms. Malanca stated that, in her opinion, the proposal met the requirements of Section 3.6C.

Hearing no further questions from the Commission, Mr. Steadman opened the floor to public comment. Wes Marsh, 624 Niles Road, addressed the Commission. He stated that he was appearing on behalf of his sister, who was an abutting neighbor to this property. Mr. Marsh stated that he had no objections to the proposal.

**MOTION** Mr. Stoutenberg, second Mr. Post, to close the public hearing in the matter of **Brian Sulvester, 21 Elaine Way – Special Exception per Section 3.6C for an Accessory Dwelling Unit**; unanimously approved.

**2. PENDING APPLICATIONS:**

**A. Brian Sulvester, 21 Elaine Way – Special Exception per Section 3.6C for an Accessory Dwelling Unit.**

Ms. Malanca stated that, in her opinion, the application met all the criteria listed in Section 3.6C.

**MOTION** Mr. Stoutenberg, second Mr. Post, to approve the application in the matter of **Brian Sulvester, 21 Elaine Way – Special Exception per Section 3.6C for an Accessory Dwelling Unit** as per all oral and written testimony; unanimously approved.

3. **NEW APPLICATIONS:**

A. **Grady Allen for UpCountry Sportfishing, 352 Main Street – Modify Existing Special Exception Permit to Allow Short-Term Rental as an Accessory Use to Business.**

Ms. Malanca explained that a second floor apartment over the Upcountry Sportfishing shop had been approved in November 1990. It had been approved as an “apartment”, not as an “accessory apartment”, and it had been rented on a long-term basis. Mr. Grady now wanted to rent the apartment out to fishermen for short-term stays of 5-7 days from August 1 through October 31. She explained that no food would be served to the renters. Ms. Malanca explained that Mr. Allen’s proposal met the definition of an accessory apartment but for the fact that it was not accessory to a residence. As the property was located in B Zone and the apartment did not meet the definition of a bed and breakfast, she called the Commission’s attorney, Eric Knapp, for his input to question whether or not it made a difference that the apartment was now going to be used for short-term rentals. Mr. Knapp stated that the apartment could be rented on a short-term basis; however, he suggested that the Commission modify the existing special exception permit and add a condition stating that the apartment could be rented as an accessory use to the business located in the first floor space.

Mr. Stoutenberg questioned whether the apartment met the definition of either a bed & breakfast or a hotel, and Ms. Malanca stated that it did not meet either definition. She stated that it was called a “Second Floor Apartment” in the file, and as it predated the current Zoning Regulations, it was grandfathered. Mr. Post questioned whether the Commission really wanted to impose any time limits on the rental period for the apartment. Mr. Pratt asked if this permit would only be for Upcountry Sportfishing or whether it would be valid for any future business as well. Ms. Malanca explained that, as it stood now, the apartment was permitted on the second floor regardless of what use was present on the first floor. She stated that Mr. Knapp had been concerned what would happen if the first floor was unoccupied; therefore, he suggested making the apartment accessory to the business use of the first floor. Mr. Stoutenberg questioned whether there was any information in the regulations limiting how long an apartment could be rented; Ms. Malanca responded negatively. She noted that special exception approvals run with the land, not the property owner, so any approval granted by the Commission would be in place for this property regardless of who might own it in the future.

Grady Allen then addressed the Commission to explain that he had contacted Ms. Malanca about the apartment because he was seeking greater flexibility. While he was still hoping to rent find a longer-term tenant for the property for several months of the year, he also wanted to be able to rent it out for 5-7 days at a time to fisherman during fishing season. Mr. Allen explained that there were very few lodging options for his clients in the Town, and he would be able to offer this apartment via his website or from his store. He explained that the apartment was 900 square feet with one bedroom, a kitchen, and a bathroom.

Mr. Post questioned why the apartment could not be considered a bed and breakfast. Ms. Malanca explained that a bed and breakfast is accessory to a single family dwelling and must be owner-occupied.

**MOTION** Mr. Stoutenberg, second Mr. Post, to modify the special exception approved November 14, 1990 to allow the second floor apartment to be rented on a long-term or temporary basis as an accessory use to the business below per the letter dated March 8, 2014 rom Grady Allen; unanimously approved.

Several members of the Commission expressed their support for this proposal and stated they believed it was good for the Town’s economic growth.

B. **Satan’s Kingdom, LLC, South Side of Main Street (Route 44) Abutting the Town Line with Canton (Assessor’s Map #043-047-3-3-5) – Zone Change from R-1.5 to Industrial Park.**

Ms. Malanca briefly reviewed the plans submitted by the applicant to the Commission. She noted that the proposal included two separate properties and owners, Satan’s Kingdom, LLC and Richard Sundgren. Ms. Malanca questioned whether the Commission wished to have the Town Planning Consultant review the application. Several members expressed a desire to have the proposal reviewed by the Planning Consultant. Ms. Malanca then recommended that the Commission schedule the public hearing for their April 23, 2014 regular meeting, as she would still be available to be present; her last day with the Town would be April 30<sup>th</sup>.

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Mr. Stoutenberg questioned whether the Commission should consider changing the zone of other adjoining properties on the south side of Main Street from R-1.5 to Industrial Park. Members noted that someone lived at one of the adjoining properties. The Commission then briefly reviewed the Zoning Map in order to verify the zone designation of the adjoining properties. Ms. Malanca stated that she would look into this further.

Mr. Post questioned whether the applicant still planned to construct a school bus depot at the location. Ms. Malanca stated that the applicant had mentioned this possibility; however, she was not sure if that was still in the works. Mr. Post questioned whether the Commission should know what the applicant definitively plans to use the site for in order to determine whether the zone change requested is appropriate. Ms. Malanca explained that the Commission should review the list of acceptable uses for the Industrial Park Zone in Section 4.2 of the Regulations; if they did not feel this site was a good location for those uses listed, then they should not approve a zone change request. Mr. Moore stated that this issue was a good reason to have the Town's planning consultant review the application. Mr. Steadman questioned whether the property was on the sewer line. Ms. Malanca stated that the property was on the sewer service area map; however, it was not connected to the sewer.

**MOTION** Mr. Steadman, second Mr. Post, to schedule the public hearing in the matter of **Satan's Kingdom, LLC, South Side of Main Street (Route 44) Abutting the Town Line with Canton (Assessor's Map #043-047-3-3-5) – Zone Change from R-1.5 to Industrial Park** for the April 23, 2014 regular meeting and to direct the Land Use Administrator to arrange for the Town's Planning Consultant to review and report on the proposal; unanimously approved.

### **4. APPROVAL OF MINUTES:**

#### **A. February 12, 2014 regular meeting.**

The Commission agreed to table this matter to the March 26, 2014 regular meeting.

#### **B. December 11, 2013 regular meeting.**

#### **C. December 18, 2013 special meeting.**

The Commission agreed to discuss both items 4B and 4C together. Mr. Steadman noted that Mr. LaPlante had not been present at either meeting. He therefore seated Mr. Moore in place of Mr. LaPlante for the purpose of items 4B and 4C only.

**MOTION** Mr. Stoutenberg, second Mr. Steadman, to approve the minutes of both the December 11, 2013 regular meeting and the December 18, 2013 special meeting as written; unanimously approved.

### **5. ZONING ENFORCEMENT OFFICER'S REPORT:**

Ms. Malanca advised the Commission that she had been offered and accepted a position with the Land Use Office in the City of Torrington and her last full day in New Hartford would be Friday, March 14<sup>th</sup>. She would, however, be available by appointment on Wednesday and Friday afternoons as needed until a new Land Use Administrator was hired. She would also attend all Planning and Zoning meetings until the end of April.

Ms. Malanca explained that there were some properties where enforcement activities would likely be required; however, she recommended that this wait until a new Zoning Enforcement Officer was hired for the Town. Ms. Malanca explained that it would be better and easier for the Town from a legal standpoint if only one ZEO was associated with an enforcement action.

The Commission congratulated Ms. Malanca on her new position, and thanked her for her years of hard work on behalf of the Town of New Hartford.

### **6. CORRESPONDENCE:**

Ms. Malanca reminded the Commission that she had sent out information regarding an Incentive Housing Zone seminar to be held on March 31, 2014 in Hartford. Mr. Moore and Mr. Post both expressed interest in possibly attending the seminar.

**7. OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION:**

**A. Continued Discussion of List of Priority Topics or Planning Meetings in 2014.**

Mr. Stoutenberg suggested that the Commission wait until Mr. Krimmel was present in order to establish a schedule for review of the Plan of Conservation and Development (POCD). Ms. Malanca stated that she would be sure to leave a list of the sections of the POCD that had already been reviewed as well as any outstanding questions that the Commission had needed addressed. She informed the Commission that she had already spoken with the Town's planning consultant, Martin Connor, about performing the necessary work for Section 2 of the POCD. Mr. Connor had agreed to work with the new Land Use Administrator to do the demographical work necessary for this section.

Noting that the Commission had expressed a desire to review signage requirements at their previous meeting, Ms. Malanca then briefly reviewed with the Commission the process by which the Commission had revamped this section of the regulations as a part of the rewrite that was ultimately adopted effective January 1, 2012. She noted that the Commission had actively solicited input from the public, and comments had been received from the Economic Development Commission, the New Hartford Business Council, and various business owners in town. Ms. Malanca reviewed many of those comments, noting that most suggestions had been incorporated into the signage regulations. Regarding off-premise signage, Ms. Malanca explained that they had been permitted only for farms as they were located in residential areas where they might not otherwise be easy to locate. However, the Commission had decided that businesses were easier to locate as they were predominantly on the more busy streets of the town.

Mr. Moore expressed the need for the Commission to continue their work on the POCD, noting the zone change and other issues that were coming before the Commission in the next few months. Ms. Malanca explained that the POCD was a guiding document for the Commission; however, the Commission could still decide to approve an application or adopt regulations that did not appear to be in line with the POCD. She explained that the Commission would simply have to acknowledge the potential disparity and state their reasons on the record as to why they believed it should still be approved or adopted.

**B. Discussion of Land Use Administrator Position.**

Mr. Steadman stated that he had discussed this position with First Selectman Dan Jerram, explaining that he had requested the Commission have the opportunity to participate in the interviewing of potential candidates. Several members of the Commission concurred with this idea. Mr. Stoutenberg suggested reviewing the By-Laws of the Commission, as he believed there was information there regarding the Commission's role in the hiring of a ZEO. Ms. Malanca suggested instead that perhaps the chairmen of each of the land use commissions could participate in the interviewing process, noting that the Inland Wetlands Commission and the Zoning Board of Appeals were also staffed by the Land Use Administrator.

Mr. Steadman also explained he had been wondering about the possibility of hiring more of a Town Planner who also performed ZEO duties. He expressed the opinion that this would help the Town in its efforts to encourage economic growth, particularly in the New Hartford Center Zone and along Route 44. Ms. Malanca explained that this would require a much higher salary level than an exclusively ZEO position. She noted that the Town did currently have a planning consultant, and she recommended that the Town compare the salary for a Town Planner against the cost of hiring a ZEO and paying consulting fees in order to see which was more cost-effective.

**MOTION** Mr. Stoutenberg, second Mr. Post, to adjourn at 8:02PM; unanimously approved.

**Respectfully submitted,  
Stacey M. Sefcik  
Recording Secretary**