

**PLANNING AND ZONING COMMISSION
REGULAR MEETING – MINUTES
OCTOBER 10, 2012 – 7:00 PM
NEW HARTFORD TOWN HALL- 530 MAIN STREET**

PRESENT: Chairman James Steadman, David Krimmel, Daniel LaPlante, Gil Pratt; Alternate Martin Post; Land Use staff Certified Zoning Enforcement Officer Rista Malanca and Recording Secretary Stacey Sefcik.

ABSENT: Ted Stoutenberg; Alternates David Jones and Peter Ventre.

Chairman James Steadman called the meeting to order at 7:00PM. All regular members were present and seated for the evening. Mr. Post arrived at 7:02PM and was seated for Ted Stoutenberg. The proceedings were recorded digitally and copies are available in the Land Use Office.

1. PUBLIC HEARINGS:

A. David and Jacquelynn Buyak, 281 Cedar Lane – 2-Lot Resubdivision “Everleigh Farms”.

Ms. Malanca explained that the applicant had not completed the required noticing to abutting neighbors in the time period required by the Zoning Regulations. She suggested that the Commission open the public hearing and immediately continue it to the October 24th regular meeting. No testimony was taken regarding this application.

MOTION Mr. Post, second Mr. Krimmel, to open the public hearing in the matter of **David and Jacquelynn Buyak, 281 Cedar Lane – 2-Lot Resubdivision “Everleigh Farms”** and continue it to October 24, 2012 due to improper noticing; unanimously approved.

B. Cheryl Maust, 535 East Cotton Hill Road – Special Exception for Home Occupation (Guitar Lessons) as per Article 3, Section 3.6E.

Cheryl Maust addressed the Commission regarding this application. Ms. Maust explained that she wished to conduct guitar lessons from a studio in her home. She stated that she would be the only teacher onsite and had students of all ages and all ability levels. Ms. Maust explained that she wanted to schedule lessons during the week from 4PM-7PM and on Saturdays from 10AM-5PM. Mr. Steadman asked about parking arrangements. Ms. Maust explained that she would only have private lessons; no group lessons would be held. Ms. Malanca distributed pictures that Ms. Maust had provided of the parking area adjacent to her home; she explained that 2 additional parking spaces were required under the regulations, which the pictures demonstrated Ms. Maust had available.

Ms. Malanca referenced a letter from Ms. Maust dated August 20, 2012 that was included in her application, which stated that lessons would be ½-1 hour in length, with no more than 20 students per week. Ms. Maust stated that she did not plan to install a sign at this time; however, she may wish to do so at a later time. Ms. Malanca informed her that if she did later wish to have a sign, it could be no more than 2 square feet in size. Ms. Malanca informed the Commission that the lesson room was 176 square feet and the house was 2387 square feet, so the area dedicated to the home occupation was less than 50% of the area of the house, as required by the Zoning Regulations. Ms. Malanca and the Commission then reviewed the application against the special exception requirements contained in Section 3.6E and Section 8.5. Ms. Malanca stated that, in her opinion, Ms. Maust's application met the general and specific requirements for a special exception for a home occupation.

Mr. Post questioned whether the neighbors had been notified, and Ms. Maust responded affirmatively. Ms. Malanca stated that proof of notice to abutting neighbors was in the file. Mr. Post then asked whether Ms. Maust intended to use amplifiers. She stated that she would only use a small Fender amplifier for electrical guitar lessons. Mr. Krimmel verified that all lessons would be held inside the house, and Ms. Maust responded affirmatively. Hearing no further questions from the Commission, Mr. Steadman opened the floor to public comment.

Laurier Cyr, 75 Shafer Road, addressed the Commission with a general question not specific to this application. Noting that the Commission had verified that all lessons would be held indoors, Mr. Cyr questioned whether the applicant could have their windows open, which meant the lesson could potentially be heard by neighbors. Ms. Malanca explained that the Commission was required to consider whether the home occupation changed the appearance of the residential structure and caused it to be different from the residential character of the neighborhood.

Hearing no further comments or questions from either the Commission or the audience:

MOTION Mr. Post, second Mr. Krimmel, to close the public hearing in the matter of **Cheryl Maust, 535 East Cotton Hill Road – Special Exception for Home Occupation (Guitar Lessons) as per Article 3, Section 3.6E**; unanimously approved.

C. Anne DeMichiel, 76 Shafer Road - Special Exception for Home Occupation (Guitar and Voice Lessons) as per Article 3, Section 3.6E.

Anne DeMichiel addressed the Commission regarding this matter, explaining that she wished to conduct acoustic guitar lessons in her basement studio as well as voice lessons in her living room, where her piano was located. Ms. DeMichiel stated that she only offered acoustic guitar lessons; therefore, no amplifiers would be required. She explained that she only wanted to have lessons on Monday and Wednesday evenings, and she would have at most 7 students between both days. She stated that she had a gravel pad available with sufficient room to park 2 additional cars. Ms. DeMichiel explained that she was also a full-time teacher in Terryville and was not interested in expanding her lessons beyond 7 students. She did not wish to have a sign on her premises. She noted that these lessons might change to mornings in the summer once her students were out of school; however, there were often weeks where she did not conduct lessons at all due to vacations. Ms. DeMichiel explained that she would only conduct lessons inside her home; however, she did sometimes open the living room window due to heat during the summer only. She also explained that she also sometimes had family and friends over to play music together or practice for musical events; these were not lessons.

Mr. Post questioned whether the neighbors had been notified, and Ms. Malanca noted that proof of notice to abutting neighbors had been submitted and was in the file. Ms. DeMichiel explained that a zoning complaint had been submitted to the Land Use Office arising in part from her guitar and voice lessons; since she held so few lessons so infrequently, she had not realized that she needed to obtain a permit. Ms. Malanca informed the Commission that Ms. DeMichiel had immediately contacted her when Ms. Malanca sent her a letter regarding this possible violation.

Ms. DeMichiel then read into the record a letter in support of her application from Marta Rubenoff, 92 Shafer Road. The Recording Secretary also read into the record a letter from Jason and Milissa Woodward of 84 Shafer Road, which stated that they were in favor of the application. Mr. Steadman then opened the floor to public comment. Sue Bertram, 85 Shafer Road, spoke in favor of the application, noting that she had never been disturbed by noise or parking related to Ms. DeMichiel's lessons. Jason Woodward, 84 Shafer Road, was also present in the audience and reiterated his support for Ms. DeMichiel's application.

Laurier Cyr, 75 Shafer Road, next addressed the Commission in opposition to the application. Mr. Cyr explained that his house was located directly across the street from Ms. DeMichiel's and that the noise from Ms. DeMichiel's open windows carried over to his property. He stated that it was often so loud that the noise could drown out his radio turned up to its highest setting. Mr. Cyr stated that people often parked at the end of his driveway and made it difficult for him to exit his property. Ms. DeMichiel then read to the Commission the zoning complaint submitted to the Zoning Enforcement Officer by Laurier and Nancy Cyr of 75 Shafer Road regarding her voice and guitar lessons being conducted without the necessary Special Exception permit. She explained that, contrary to allegations made to the Land Use Office, her husband's business was not based in their home; his business was located on Goshen Road in Torrington and he had no intention of expanding operations to their home. Mr. Cyr stated that the number of lessons at Ms. DeMichiel's property had doubled this past month. Ms. DeMichiel affirmed this statement, explaining that her students were back from vacation and had resumed their music lessons, bringing the number of students up to the 7 she mentioned earlier.

Nancy Cyr, 75 Shafer Road, then addressed the Commission and explained that they had been contacted by Ms. DeMichiel's attorney regarding their alleged interference with Ms. DeMichiel's music lessons. She stated that as a result of this letter, they had made the zoning complaint referenced earlier. Mrs. Cyr questioned whether there were any zoning regulations that would forbid them from engaging in activities on their own property while Ms. DeMichiel was giving lessons. Ms. Malanca and members of the Commission explained that they had no jurisdiction over noise complaints, which were a civil matter, and that there were no zoning regulations pertaining to their use of their property at the same time as Ms. DeMichiel's lessons.

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Mr. Post briefly discussed with Ms. DeMichiel steps she could take to minimize impact on abutting neighbors, such as acoustical drapes and keeping windows closed. Ms. DeMichiel agreed to keep her windows closed while giving lessons. Ms. Malanca reiterated that noise complaints were more of a civil issue than a zoning issue, and the appropriate way to address them would be by contacting an attorney. She also noted that Shafer Road was not designated as a “No Parking” area and anyone could park along the road; therefore, this was also not a zoning issue. Mr. Steadman explained that if this application were approved, Ms. DeMichiel would have to comply with the terms she stated as a part of her application; any expansion of her activities would require that she file another application and again appear before the Commission.

Mr. Krimmel questioned whether Ms. DeMichiel held any group lessons. She responded negatively, stating that all lessons were with one student at a time. She reiterated that she sometimes had rehearsals at her house for upcoming events in which she was participating; she also stated that members of her family sometimes played music together. Mr. Post asked how many students Ms. DeMichiel currently had per week. She responded that she currently had 4 guitar students and 3 voice students, all of which were private ½-hour lessons. Ms. Malanca and the Commission then reviewed the application against the special exception requirements contained in Section 3.6E and Section 8.5. Ms. Malanca stated that, in her opinion, Ms. DeMichiel’s application met the general and specific requirements for a special exception for a home occupation.

Hearing no further comments or questions from either the Commission or the audience:

MOTION Mr. Post, second Mr. Krimmel, to close the public hearing in the matter of **Anne DeMichiel, 76 Shafer Road - Special Exception for Home Occupation (Guitar and Voice Lessons) as per Article 3, Section 3.6E**; unanimously approved.

2. PENDING APPLICATIONS:

- A. **David and Jacquelynn Buyak, 281 Cedar Lane – 2-Lot Resubdivision “Everleigh Farms”.**
The Commission agreed to table this matter to the October 24, 2012 regular meeting.

- B. **Cheryl Maust, 535 East Cotton Hill Road – Special Exception for Home Occupation (Guitar Lessons) as per Article 3, Section 3.6E.**

MOTION Mr. Krimmel, second Mr. Post, to approve the application in the matter of **Cheryl Maust, 535 East Cotton Hill Road – Special Exception for Home Occupation (Guitar Lessons) as per Article 3, Section 3.6E** as per all oral and written testimony; unanimously approved.

- C. **Anne DeMichiel, 76 Shafer Road - Special Exception for Home Occupation (Guitar and Voice Lessons) as per Article 3, Section 3.6E.**

MOTION Mr. Krimmel, second Mr. LaPlante, to approve the application in the matter of **Anne DeMichiel, 76 Shafer Road - Special Exception for Home Occupation (Guitar and Voice Lessons) as per Article 3, Section 3.6E**, as per all oral and written testimony.

Mr. Post questioned whether conditions should be included in the approval in order to address the neighbors’ complaints. He suggested a condition regarding the parking of all vehicles in the DeMichiel’s driveway and a condition requiring Ms. DeMichiel to make every effort to minimize any inconvenience to her neighbors caused by her guitar and voice lesson business. Ms. Malanca explained that conditions of approval should be very specific in order to ensure they were enforceable in the event of a complaint. While the condition regarding parking was specific, the second suggested condition would be difficult to enforce. After a brief discussion, the Commission agreed that it was more appropriate to make a general statement for the record that the Commission hoped Ms. DeMichiel would make every effort to minimize any inconvenience to her neighbors arising out of her guitar and voice lessons.

MOTION Mr. Post, second Mr. Krimmel, to amend the motion to approve the application to include the condition that all guitar and voice lesson students are to park in the DeMichiel’s driveway; the motion to amend was unanimously approved.

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The Commission then voted on the amended motion to approve the application in the matter of **Anne DeMichiel, 76 Shafer Road - Special Exception for Home Occupation (Guitar and Voice Lessons) as per Article 3, Section 3.6E**, as per all oral and written testimony, subject to the condition that all guitar and voice lesson students are to park in the DeMichiel's driveway; unanimously approved.

3. NEW APPLICATIONS:

No business was discussed.

4. APPROVAL OF MINUTES:

A. September 12, 2012 regular meeting.

MOTION Mr. Post, second Mr. Krimmel, to approve the minutes of the September 12, 2012 regular meeting as written; unanimously approved.

5. ZONING ENFORCEMENT OFFICER'S REPORT:

Ms. Malanca briefly reviewed with the Commission her enforcement activities over the previous month. She informed the Commission about the State Plan of Conservation and Development and her efforts to review the Locational Guide Map in order to ensure its accuracy. Mr. Krimmel requested that Ms. Malanca investigate a possible zoning violation at 161 Maple Hollow Road. He explained that an RV was parked onsite and was not behind a building as required by the regulations. Further, it appeared to him that someone might be living in the RV.

6. CORRESPONDENCE:

No business was discussed.

7. OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION:

A. 2013 Regular Meeting Schedule.

MOTION Mr. Krimmel, second Mr. Pratt, to adopt the 2013 Regular Meeting Schedule as written; unanimously approved.

B. Town of New Hartford Plan of Conservation and Development.

Mr. Steadman asked Ms. Malanca when the POCD would need to be completed. She explained that it was due by 2015. The Commission briefly discussed whether it was necessary to hire an outside planning consultant to completely rewrite the POCD, or whether it could be done by the Commission as it only required small revisions. The Commission agreed that all members should review the current Plan of Conservation and Development by the October 24th planning meeting and be ready to discuss which course they felt was more appropriate.

C. Update on Economic Development Commission Activities.

Mr. Krimmel briefly updated the Commission regarding the Economic Development Commission's recent activities to promote development of the Hurley property and advance the idea of New Hartford as a tourist destination. He explained that the EDC was considering proposals whereby the Hurley property could be rezoned to permit for mixed use development; this would allow for 1-2 bedroom residential units as well as shops, restaurants, and crafters studios.

D. Discussion Regarding Open Space and Fee In Lieu of Open Space.

The Board briefly discussed the reasons for the open space requirement and optional fee in lieu of open space for subdivision and resubdivision applications.

MOTION Mr. Pratt, second Mr. Post, to adjourn at 8:45PM; unanimously approved.

Respectfully submitted,
Stacey M. Sefcik