

**PLANNING AND ZONING COMMISSION
REGULAR MEETING – MINUTES
WEDNESDAY, APRIL 8, 2015 – 7:00PM
NEW HARTFORD TOWN HALL – 530 MAIN STREET**

PRESENT: James Steadman, Ted Stoutenberg, Dan LaPlante, Bob Moore; Alternate(s) Martin Post, Peter Ventre and Thomas McLoughlin; Zoning Enforcement Officer Steven Sadlowski.

ABSENT: David Krimmel.

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

1. PUBLIC HEARINGS:

A. Terri D. Vogellus/Applicant – Jeffrey Buyak/Owner – Special Exception - Map 014, Block 018, Lot 005 – 1120 Litchfield Tpke. – Package Store.

Attorney Peter Herbst appeared before the commission on behalf of the applicant. Attorney Herbst explained to the commission that he was not part of the initial public hearing of March 25, 2015 but has reviewed the Minutes from that meeting. He addressed the three issues the Planning and Zoning Commission had sought clarification on: well concerns of a neighboring property, sight line concerns, and chain of title as it relates to the right of way. Attorney Herbst explained that the town engineer Roger Hurlbut has visited the site and has noted that the drainage is appropriate and will have no effect on the neighboring properties. Attorney Herbst noted that with his client's agreement to have a one way entrance and a one way exit, Mr. Hurlbut has noted that this satisfies any concern over sight line. Attorney Herbst provided commission members with a copy of the deed from Volume 97, Page 840 of the Land Records, describing the easement, noting the original deed granted a right of way "for all purposes for which driveways are ordinary used." He noted that the right of way does not contain any restrictions.

Attorney Herbst noted the letter of support submitted by Mr. David Childs, chairman of the New Hartford Economic Development Commission. He also noted and addressed issues raised by a letter opposing the application submitted by the chairman of the Board of Directors of the Bakerville Library.

Attorney Herbst reviewed the special exception standards and asserted why this application satisfies the requirement and is consistent with the zoning regulations.

Attorney Herbst then submitted an original petition, to which signees stated they are "...in favor of the Bakerville Package Store moving 1120 Litchfield Turnpike." He read into the record the names of individuals who had signed the petition: *David Nygren, Peter Disabella, Pam Erikson, Candy Taylor, Mike Coulet, Brendan McCabe, Janice Tripp, Tim Philips, James A. Chapulski, Scott Tomaselli, Jim Erho, Ed Creron, Jim Gagne, Jessica Locke, Kathy Seitz, James O'Connor, Zach Marcus, Donna Buyak, Jennifer Scribbs, Keith Bernard, James Woodward, Bruce Cunningham, Lori Wesolowski, Tyler Fiore, Debbie Seabock, Johnny Reynolds, III, Lisa Phillips, David Moon, Mary L. Vogellus, Vincent Vogellus, Donald Dings, Vicki Dings, Anthony Drake, Cathy McCabe, Nancy Yabrowski, Andrea DeLorenzo, John St. Pierre, Justin Pike, Steven J. Sabolski, John Marsh, Mike F. Carlone, Martin Baker, Bill Drosdenko, Ken Fortier, Jacob Fortier, Kevin Kaminski, Karen Griswold Nelson, Jason Gallenti, Chip Ryan, Laura White, Beatrice Reyner, Kim Hotchkisson, Wallace C. Raymond, Eric Basetta, Bruce Worney, Newt Wilder, Billy Applewhite, Leann Michaud, Kate Monjon, Kathy Beyer, David Buyak, Rachel Coyle, Nick Nickerson, Julie Harper, Roy Steeves, Bob Upson, David Villete, Eric Quinn, Frances Dings, Holly Bunn, Mark Paine, Robert Sekulski, Mike Koether, Reed Heller, Cathy White, Benjamin Sekulski, Anne Mowry, Kelly Harrison, and Floyd Harrison.* Attorney Herbst noted that the petition includes the address of each individual as well as the number of years he or she has resided in the community.

Attorney Herbst then read, into the record, letters from various residents supporting the application:

- **Tony Nader of 35 Indian Meadow Road;**
- **Kerry Sekulski of Winchester Road;**
- **Dan Cimmino of 800 Litchfield Turnpike;**
- **Cindy Payne and Mark Payne of 12 Birdsvie Avenue;**
- **Julie Esposito of 44 East Cotton Hill Road;**
- **John Phillips and Lisa Phillips of 237 Cedar Lane;**
- **Kate M. Follert of Richards Road;**
- **Frank and Bonnie Marsh of 108 Winchester Road;**
- **Philip Langevin of 400 Cedar Lane;**
- **Mike O. McCabe of 37 East Cotton Hill Road; and**
- **Eugene Buyak of 151 Richards Road;**

Mr. Stoutenberg read into the record a letter in opposition to the application from **Emily Jahne of East Cotton Hill Road**, citing sight line concerns and the proximity of the proposed store to the library. Attorney Herbst noted that the town engineer reviewed the sight line and it has been addressed through the one way ingress and egress. He also noted that the library is located within a business zone which he commented was unusual, that they are not on the same street, and that the package store is far enough away from the parking lot for the library.

Attorney Herbst then explained he has requested of the attendees at the public hearing, who have expressed an interest in supporting the application, to step to the microphone and identify themselves with their name and address. Those people appearing before the commission expressing their support of the special exception include:

- **Jim Chakulski of 181 Richards Road;**
- **Mike Greenwood of 45 Dorothy Road;**
- **Brandi Buyak of 161 Richards Road;**
- **Vin Vogellus of 25 Dings Road;**
- **Frank Marsh of 108 Winchester Road;**
- **Bonnie Marsh of 108 Winchester Road;**
- **Martin Baker of 42 Gillette Road;**
- **Kelly Harrison of 16 Tarringford East;**
- **Floyd Harrison of 16 Tarringford East;**
- **Annie Lowry of 567 Niles Road;**
- **Donna Buyak of 151 Richards Road;**
- **Eugene Buyak of 151 Richards Road;**
- **Mary Baker of 42 Gillette Road;**
- **Sargent Taylor of 20 Birdsvie Avenue;**
- **Jason Galliet of 165 Gillette Road;**
- **Marlene Dings of 71 Cedar Lane;**
- **Brian Dings of 79 Cedar Lane;**
- **Brendan McCabe of 37 East Cotton Hill Road; and**
- **Jim Gagne of 193 Cotton Hill Road.**

Additionally, the applicant spoke in favor of her application, detailing her historical support of the Bakerville Library as well as other community entities. Attorney Herbst provided to commissioners written copies of his statements he had made at this hearing.

Mr. Robert Slais of 1124 Litchfield Turnpike spoke in opposition of the application. He expressed concerns that patrons would utilize his driveway to exit onto Maple Hollow Road.

Mr. Roy Litchfield of 38 Gibson Lane spoke in opposition of the application. He opined that a special exception will not provide economic development and noted that there are taxes owed on the property.

Mr. Dan Jerram of 30 Willow Lane spoke in favor of the application.

Mr. Dan LaPlante expressed his wish to see some improved landscaping in terms of improving the appearance of the property with shrubs or flowers.

Mr. Martin Post inquired as to whether signage would need to be approved by an architectural review committee. Mr. Sadlowski commented that it could be made as a condition. Attorney Herbst commented that the applicant is planning to erect only one sign on the building.

MOTION: Mr. Steadman, Mr. Moore second, **to close the public hearing in the matter of Terri D. Vogellus/Applicant – Jeffrey Buyak/Owner – Special Exception - Map 014, Block 018, Lot 005 – 1120 Litchfield Tpke. – Package Store; unanimously approved.**

MOTION: Mr. Moore, Mr. Steadman second, **to amend the agenda, moving Pending Applications after New Applications; unanimously approved.**

2. NEW APPLICATIONS:

A. Alford Associates, Applicant – Zahnradfabrik LLC, owner – Site Plan Review – Map 38, Block 134, Lot 3 – 120 Industrial Park Road – Install a loading area, driveway and parking on south side of building.

Mr. Phil Doyle, of LADA Landscape Architecture and Planner, appeared before the commission to introduce a site plan modification for the Perry Technology building in the Industrial Park. Perry Technology is seeking to distribute products and functions more appropriately than the thirty five year old present plan, Mr. Doyle explained. Mr. Doyle noted that an application is current in front of the Inland Wetlands Commission and that it has been deemed as non-significant activity.

Mr. Post inquired whether there is an increase in the impervious surface. Mr. Doyle noted that the applicant is seeking to increase the impervious surface by about 20,000 square feet.

B. The Home Depot, Applicant / Owner – Site Plan Review – Map 2, Block 900, Lot 010, 1580 Litchfield Turnpike – Modify site plan to allow expansion of outside garden display in parking area directly east of existing garden center from April to July and to allow 4 types of fencing to be displayed in front of the building to the left of the “Pro” canopy on front sidewalk area.

Mr. Michael Simpson, the store manager of The Home Depot, appeared before the commission regarding this application. He explained that during the store’s busy season, he would like to extend floral area out to the parking area. He also explained the reasons behind the application to allow fencing in the front of the building. Mr. Simpson also noted that the applicant would like to utilize parking spaces in the back of the store for storage.

Discussion occurred regarding whether the use of orange cones or concrete blocks was more appropriate for blocking off of new plant area.

MOTION: Mr. Steadman, Mr. Thomas McLoughlin second, **to approve the application in the matter of The Home Depot, Applicant / Owner – Site Plan Review – Map 2, Block 900, Lot 010, 1580 Litchfield Turnpike – Modify site plan to allow expansion of outside garden display in parking area directly east of existing garden center from April to July and to allow 4 types of fencing to be displayed in front of the building to the left of the “Pro” canopy on front sidewalk area, subject to the following conditions: 1.) The applicant is allowed to expand the area where plants and associated items are displayed as per the site plan submitted, to be able to display fencing as per the submitted site plan, and to extend the**

outdoor storage area as per the submitted site plan; 2.) All other existing conditions from the original approval or the one granting outside sales and display are still valid; 3.) When the approved portion of the parking lot near the garden center is used for display of merchandise, the drive isles shall be left open with merchandise only placed in the parking spaces. The driveway portion shall be blocked to prevent vehicle passage by a suitable removable barrier as approved by the ZEO. Whatever is used must be visible enough to stop any vehicles, but easily removable by a fire department responders to allow for rapid access in the event of an emergency; 4.) Special care shall be shown to keep noise levels from delivery vehicles or forklift trucks to a minimum in the area behind the store; 5.) These approvals are only valid from April through July of each year; and 6.) Two additional tables may be installed on the front of the garden center are also allowed all year for merchandise display; Mr. Steadman, Mr. Moore, Mr. McLoughlin voted favorably, Mr. LaPlante opposed, Motion passed.

C. Robert Goodskey, Applicant, New Hartford Village Fire District, owner – Site Plan Review – Map 37B, Block 127, Lot 1-2, 12 Greenwoods Road – Remove section of sidewalk and repave parking area to provide more parking for responders.

Mr. Robert Goodskey appeared before the commission on behalf of the New Hartford Village Fire District explaining that they are seeking to enhance parking and repave their front apron.

MOTION: Mr. Steadman, Mr. McLoughlin second, **to approve the application in the matter of Robert Goodskey, Applicant, New Hartford Village Fire District, owner – Site Plan Review – Map 37B, Block 127, Lot 1-2, 12 Greenwoods Road – Remove section of sidewalk and repave parking area to provide more parking for responders; unanimously approved.**

For consistency purposes, Mr. Stoutenberg explained that he would seat Mr. Post rather than Mr. McLoughlin for discussion of the following agenda item as Mr. Post was seated for this application when it was received as a new application at the March 25, 2015 meeting.

3. PENDING APPLICATIONS:

A. Terri D. Vogellus/Applicant – Jeffrey Buyak/Owner – Special Exception - Map 014, Block 018, Lot 005 – 1120 Litchfield Tpke. – Package Store.

MOTION: Mr. Steadman, Mr. Post second, in the matter of Terri D. Vogellus/Applicant – Jeffrey Buyak/Owner – Special Exception - Map 014, Block 018, Lot 005 – 1120 Litchfield Tpke. – Package Store, *we have* found that the proposed use, with the following conditions, is consistent with the requirements spelled out in our S/E Criteria and the Plan of Conservation and Development and therefore approve this application as per the submitted plans entitled, “Site Development Plan” for Jeffery Buyak by DuFour Surveying LLC dated 3-29-15 subject to following conditions: 1.) The existing Special Exception granted on July 23, 2008 for a car cleaning / detailing business is hereby revoked in order to provide for this approval; 2.) The existing building that is approximately 26’ X 36’ is the approved location for the package store. Any additions or alterations to this building which increase its size, or the size of the package store, shall require a modification to this permit; 3.) Any significant changes, as per the ZEO, to the site plan shall also require a Modification of the Site Plan by the Commission before the changes are made. Minor changes can be approved by the ZEO; 4.) The applicant can have one building mounted sign up to 32 square feet and one free standing sign up to 20 square feet, as per the zoning regulations; 5.) The front door shall be the door used by the customers, the rear door shall be for deliveries and employees only; 6.) An Arborvitae row shall be planted or transplanted along the easterly property line between the subject property and that of Mr. Pompa to provide screening, as shown on the plan but further defined in this condition. They shall be planted in a straight line from the existing garage to 20 feet from the street pavement edge and separated by the recommended spacing for maximum screening potential; 7.) The parking lot shall be one-way as indicated on the site plan. Traffic directional signage shall be installed signifying this fact. Such signage shall not block site-lines; 8.) Dumpster shall be appropriately screened via (fencing or

arborvitaes) with a gate on the front; 9.) Owner/operator shall check the property on a daily basis for any deposited trash and shall remove any if found; 10.) Signage and/or a fence shall be installed to direct customers out of the exit rather than through Bob's Foreign Auto Repairs lot; unanimously approved.

4. APPROVAL OF MINUTES:

A. March 11, 2015

MOTION: Mr. Steadman, Mr. Post second, to approve the March 11, 2015 Minutes with the following correction: the name of Roy Gibson should be changed to the name of Roy Litchfield. Also, on page 3, it should state only once that Mr. Steadman and Mr. Post left the room for the discussion and vote; unanimously approved.

B. March 25, 2015

MOTION: Mr. Steadman, Mr. Moore second, to approve the March 25, 2015 Minutes with the following corrections: On Page 2 of the March 25, 2015 Minutes, paragraph 5 should read, "Mr. Moore opposed any use of business logo as seen with Ski Sundown in Chapter 3. Mr. Krimmel strongly disagreed and opined that the businesses are representative of the character of the town." Also on page 2, paragraph 6, "Mr. McLoughlin noted that the insertion of the word "however" ought to be used in the first paragraph following the heading."; unanimously approved.

5. ZONING ENFORCEMENT OFFICER'S REPORT:

None discussed.

6. CORRESPONDENCE

None discussed.

7. OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION

MOTION: Mr. Steadman, Mr. Moore second, to adjourn at 8:54PM; unanimously approved.

Respectfully submitted,

Pamela Colombie
Recording Secretary