

**New Hartford Planning and Zoning Commission  
TOWN OF NEW HARTFORD, CONNECTICUT  
REGULAR MEETING MINUTES  
Wednesday, July 27, 2016 at 7:00 PM  
New Hartford Town Hall  
530 Main Street, New Hartford, Connecticut**

**PRESENT:** Ted Stoutenberg, Jim Steadman, David Krimmel, Dan LaPlante, Bob Moore, Alternates Tom McLoughlin, Marty Post and Peter Ventre, and Zoning Enforcement Officer Ruth Mulcahy.

**ABSENT:** None.

Chairman Ted Stoutenberg called the meeting to order at 7:03PM. The entire proceedings were recorded digitally and are available in the Town Hall.

**1. PUBLIC HEARINGS:**

**A. Town of New Hartford – Amendments to Town of New Hartford Zoning Regulations – Add Section 5.7. West Hill Pond Protection Overlay District.**

**Ms. Donna LaPlante of 77 Stedman Road** addressed the Commission regarding this proposed amendment. She noted that she had reviewed the Minutes of the prior meeting and was impressed by the depth of the comments made by individuals, opining that they were very knowledgeable about the Town's Zoning Regulations as well as water protection. She noted that the proposed changes regarding docks and the buffer zone are especially significant due to the average size of the waterfront lots, and such changes should not be considered unless all 108 owners of waterfront lots receive a written notice, through certified mail, from the Commission. Ms. LaPlante explained that this was done when the Farmington River Overlay District was adopted.

Ms. LaPlante also opined that the language within the Amendment, A-7, addressing the "aesthetic values of the pond", should be omitted as it does not belong, noting that the primary concern has been indicated as preserving water quality. She also concurred with sentiments previously shared, in that exceptions should not be handled through a variance sought from the Zoning Board of Appeals. Finally, Ms. LaPlante suggested that the Commission should request that the Board of Selectmen empower a task force to study the significance of the impact of septic systems in the R-4 Zone and work on creating an Ordinance to address the same.

**Ms. Shelley Lloyd of 29 Pioneer Drive** thanked the Commission for keeping the Public Hearing open and opined that taking no action by the Commission to address water quality at this time would be unacceptable. She urged the Commission to, at the very least, partly address the concerns through the language pertaining to Storm Water Management plans and to continue working on other components of the drafted Amendment.

**Attorney Town Beecher of 142 Camp Workcoeman Road** noted that he observed that at the last hearing, only a couple of the lakefront property owners who addressed the Commission were in favor of the exact language of the proposed overlay zone as presented. He further noted that most of the lakefront property owners who spoke requested that the dock provision be eliminated entirely, requested that the buffer setback be reduced, and generally supported the Storm Water Management Plans for development clearly be tied to a trigger point. Attorney Beecher again offered to volunteer his time in drafting a new Amendment. He noted that the

Minutes from the last meeting should have indicated that what he had submitted for the record was the red-lined version of the Commission's draft, with his suggestions, as well as a clean copy of the draft containing his suggestions. The July 13, 2016 Minutes suggest that he had submitted a clean copy of the Commission's own draft.

**MOTION:** Mr. Krimmel, Mr. Steadman second, **to close the public hearing; unanimously approved.**

**B. Franklin Park Realty, LLC/Applicant – Griffin's Service Center Inc./Owner – Map 37A – Block 122- Lot 001, 507 Main Street & Map 37A – Block 122 – Lots 1A & 1B Main Street – Site Plan.**

Ms. Mulcahy read the legal notice into the record, noting that it has been published the requisite two times.

Mr. Ken Hrica, P.E. and Licensed Land Surveyor, appeared before the Commission regarding this application. He noted that accompanying him was Professional Engineer Scott Hesketh of F.A. Hesketh and Associates, Attorney Tim Furey of Furey, Donovan, Tracy, and Daly, P.C., and two owners representing the applicant, Robert Ouellette and Joseph Naples.

Mr. Hrica explained that the applicants are seeking a Special Exception for a 1,635 square foot high-turnover restaurant with a drive-thru window at the .66-acre vacant lot at the intersection of Main Street and Town Hill Road. He utilized the plan drawings to point out to Commissioners the location of the building, the landscaped grass areas, the layout of the parking areas and means for ingress and egress. Mr. Hrica explained that while only fifteen parking spaces are required for this application, the applicant's plan include twenty-three. He also indicated where the loading space/dumpster area will be located on the backside of the building.

Mr. Hrica explained that two storm water basins have been designed to handle drainage and indicated on the drawings that one is located in the island area of the parking area while the other is located at the east corner of the property. He explained that they are two and one-half (2½') feet deep planting basins. The purpose of the basins is to collect all the water from the parking areas and allow it to drain into these basins through a sandy planting medium that the water will filter through before it is released to the State's drainage system, according to Mr. Hrica. Because of the proximity to the Farmington River, Mr. Hrica explained that detention is not a concern. He noted that the objective is to get the water off the site and to avoid a lag time with storm water which could coincide with anyone upstream which could cause a flooding problem. Mr. Hrica explained that the basins are sized enough to be able to hold and filter 100%, up to a 100-year storm event, without releasing any water over land. He explained that there are underground pipes within the basins that lead to the state drainage system. Mr. Hrica reported that the approval and sign-off from the State has been received for the methods used and the flows to release them. He noted that he will forward the same to Ms. Mulcahy.

With regards to the proposed drive-thru, Mr. Hrica explained that the design allows for fourteen (14) cars stacked. He also pointed out the location of a small patio area adjacent to the building which will host four to six tables. Mr. Hrica also noted the location of the proposed modular block retaining wall. He reported that the proposal includes replacing the sidewalk on Main Street as well as the addition of a new sidewalk along the frontage on Town Hill Road to align to the one currently being installed by the Town on the area adjacent to the Library property. He noted that with this new sidewalk along Town Hill Road, revised plans are being submitted with the only change being locating the sidewalk in about six-feet from what he had originally designed in order to align it with the Town's sidewalk. In response to a question posed from Mr.

Post regarding the trees that are currently along the road in this spot, Mr. Hrica explained that they will indeed be removed in order to meet the sight line requirements of the State Department of Transportation. Mr. Stoutenberg noted that the sidewalk, as depicted, appears to stop at the driveway but would need an additional piece beyond the driveway. Mr. Hrica explained that he has spoken with the engineer that designed the sidewalk along the Library, noting that a sewer connection may need to be constructed through this area. He noted that the Applicant will work with Lenard Engineering and the Town to add the sidewalk up to the property line. Mr. Steadman questioned whether the applicants have held conversations with the neighbor regarding the large mound of earth. Mr. Hrica noted that they have had conversations with the owner of the convenience store to eliminate the large mound which would allow his applicants to eliminate the retaining wall but that no final agreement has been reached yet. He reported that negotiations are ongoing. Mr. Stoutenberg questioned the status of the State's fifteen (15') foot Right of Way that appears to go through the proposed drive-thru. Mr. Hrica explained that there has been no discussion regarding this and that he believes that the State is pleased with the Town's Vision Plan for the Main Street Center District to include sidewalks.

Mr. Hrica then reviewed the Landscaping Plan prepared by Rosemary Eldridge which included a Lighting Plan. Mr. Stoutenberg confirmed with Mr. Hrica that the applicant would be maintaining the landscaped area of the State property at this site. Mr. Hrica confirmed, explaining that most people who live along the state highway generally mow right up to the pavement and that it would behoove the owners to do so at this location in order to maintain an attractive site. Mr. Steadman questioned whether any trees are planned to provide shade for the patio area. Mr. Hrica explained that they do not but will likely have tables with umbrellas to provide shade.

Mr. Hrica noted that while the plans for access to the public water and sewer have not been finalized, he had invited New Hartford Water Pollution Control Authority Chairman Bud Butler to report on this progress. Mr. Hrica reported that his clients are willing to work with Mr. Butler for whatever is needed in this regard. Mr. Butler then appeared before the Commission to describe some of the obstacles that have been encountered. Mr. Butler reported that the WPCA is comfortable that a solution will be reached with this project going forward as both their engineers and the Torrington Water Company have been involved.

Mr. Scott Hesketh, P.E., then addressed the Commission with regards to a Traffic Report he prepared dated March 23, 2016, submitted as part of this application. In preparing that report, he explained that traffic volume counts from the DOT were utilized as well as their own traffic volume counts from a two-counter installed on Route 219, just west outside of Route 44, over a seven-day period in January, 2016. Mr. Hesketh reported that his firm also conducted manual turning movement counts at the intersection of Route 44 and Route 219 during morning and peak hours. Findings of this report were then discussed in greater detail. He reported that in reviewing the proposed site development traffic, added to the background traffic, and having conducted a capacity analyses of the intersection of Route 44 and Route 219 for both the morning and Saturday peak hours, which also happen to be peak hours of the proposed development, level of service 'B' would likely occur. Mr. Hesketh explained that this translates to a fifteen second delay per vehicle. He opined that the proposed development will not significantly impact those delays.

Mr. Hesketh then discussed his review of the two intersections of this proposed site's driveways. He explained that the movements on the streets of Route 44 and Route 219 will operate at a level of service 'A', meaning minimal delay of five seconds or less on average. The site's driveways will operate on a level of service of 'A', 'B', or 'C', during peak hours, with the Route 44 driveway operating at level 'C' during the morning peak hours, according to Mr. Hesketh. He

noted that in the que analysis of the proposed drive-thru, with an assumption that 65% of the projected customers would use the drive-thru window, with a disturbance rate of a vehicle leaving the driveway every thirty seconds on average, the anticipated que would be about two hours with the average waiting time of 50 seconds per vehicle. He noted that the probability that the que would exceed ten vehicles during the peak hours is about 1%. Mr. Hesketh noted that there was an opportunity to meet with the DOT as preliminary plans were developed and to discuss the site layout and sight differences. He noted that plans were submitted to DOT and that two different sets of comments were received, with the second set of comments having been responded to the date of this meeting. Mr. Hesketh opined that the comments were minor and characterized the DOT as having been very happy with the location, layout, and design of the two different driveways and the sight distances of each of the site's driveways. He explained that it has been a standard practice for DOT to not provide an encroachment permit or an approval letter until such time that local commissions have acted. In response to a question from Mr. Steadman regarding stacking at the Dunkin Donuts across the street, Mr. Hesketh noted that it is significantly shorter than the one in this proposal. Mr. Moore questioned the distance of the stacking lane. Mr. Hesketh noted that there is stacking for twelve vehicles at twenty feet per vehicle, or two-hundred forty feet, along with an additional twenty or forty feet before cars would spill out back onto Route 219, resulting in effect, allowance of fifteen or sixteen vehicles before a spill out.

Mr. Moore also asked about whether the percentage of cars that might make a left-hand turn from Route 44 has been reviewed. Mr. Hesketh indicated that they are projecting an alternate set of site traffic, explaining that this is a convenience type of use and that typically 70% of this type of traffic makes a right turn in and a right turn out. He noted that levels of service have been looked at here and that good levels of service are projected but that if a person is waiting to make a left-hand turn, a vehicle can get by and carry on. Mr. Hesketh explained that this is one of the things that was shown to DOT and that DOT was satisfied that it can be accommodated. Additionally, he explained that if a person is familiar with the site, they will be aware that they can make a left turn up Route 219 at the light, and then take right off of Route 219.

Mr. Ventre inquired about the stacking distance between the ordering location in the que to the pick-up window. Mr. Hesketh indicated that the distance is approximately eighty-five to ninety (85'-90') feet, or four vehicles.

Attorney Tim Furey then reviewed an architectural rendering of the building. He noted that the owner has met twice with the Architectural Review Committee resulting in substantial changes to the design of the structure based on that group's requests. Among the changes are several dormers to the building to highlight the colonial look of the building, faux windows, and three windows on the side elevation as well as additional windows on all the elevations. Attorney Furey explained that Dunkin Donuts design platform now includes bans of the company's colors. He noted that waivers have been secured to allow for a stone structure, deeming it more appropriate for this community. More colonial type light fixtures have been added as well as awnings, that typically carry the franchise's banding, modified to a plain brown to match the siding of the building. He noted that the roof top screening has been raised to provide for a visual barrier for passersby from Route 219. Attorney Furey explained that another adopted recommendation from the ARC is the removal of the signage above the front door. He noted that there are only two Dunkin Donuts identifying signs on the site, one with a Dunkin Donuts logo approximately eighteen square feet as well as a ground mounted sign near Route 44 with a stone base. Attorney Furey also reported that there are two directional signs, with no logos, at

the entrance of Route 44. He reported that the applicants are not proposing to construct directional signage on Route 219 because the setback from the state highway is further back.

Mr. Hrica explained that only this evening, he received a copy of the review as submitted from Sean Hayden from the Northwest Conservation District regarding storm water and sediment/erosion control. He noted that most of what is contained within this review can be worked out with Mr. Hayden. Mr. Hrica explained that he does strongly disagree with the recommendation of a subsurface gravel well, opining that it is inappropriate to use for a downtown business. Mr. Hrica then passed around his cellphone for Commissioners to review an example of a photograph of a subservice gravel well. The Recording Secretary snapped a copy of this example and has forwarded to Ms. Mulcahy for the record. Mr. Hrica explained that in order to add such a component, it would necessitate changing the entire layout of the proposal and opined that it would not be as attractive as anyone in the Town would want it to be. Attorney Furey also noted that including this subsurface gravel well would result in standing water which could pose a hazard for which it would need to include fencing around it.

Mr. Steadman again addressed the berm located between this site and the neighbor, questioning whether the applicants are agreeable to removing it. Attorney Furey explained that they are but cannot agree to the provision until the applicants have their approvals in place and become the owners of the land. If approvals are secured and terms can be agreed with the neighbor, the applicants will return with a site plan amendment, according to Attorney Furey.

Mr. Steadman questioned whether the environmental testing on the site has been discussed. Attorney Furey noted that it has been done and completed and that the current owner had a small area of remediation was completed just before last winter. He noted that the current owner had their own environmental engineers supervising the remediation but that the applicants have retained their own environmental engineers to review the same. In response to an inquiry from Mr. Steadman as to whether this is all in the record, Attorney Furey indicated that it is not and is not relevant to the record because of the presence of public water and sewer.

**Mr. Steve Unger of 706 West Hill Road**, noting that he is also on the Beekley Library Board of Directors, questioned whether any of the twenty-three parking spaces indicated as part of the presentation are ones that will be located on Beekley Library property through an easement. Attorney Furey noted that all of the twenty-three parking spaces discussed are on this site but explained that there had been discussion with the First Selectman regarding additional parking spaces for the benefit of the Library. He noted that this is not part of this application but that in preliminary conversations with the Library and the Town to have those additional spaces, the applicant would cooperate with them to make their driveway at the Route 44 end available by an easement and allow additional spaces to be constructed partly on the applicant's property and partly on the Library's property. Mr. Unger then confirmed that the Library Board was in favor of the presentation.

**First Selectman Dan Jerram** submitted a letter from the Board of Selectmen in support of the application, noting that it brings growth and development to downtown. He explained that his Board is still in preliminary stages of a parking amendment with the Library although they are not ready to go forward with it at this time. He noted that the Board sees this application as bringing very much needed growth to New Hartford's Grand List, a new user to the WPCA as well as providing a safer alternative for the customers to the drive-thru problem across the street from this location.

**Ms. LaPlante**, noting that she is a member of the ARC, explained that in their discussions, they were advised that there would be no umbrellas. She noted that while the Committee is not opposed to umbrellas, they would be opposed to the color orange. She also questioned whether the logo on the chimney would be lit 24 hours a day. Attorney Furey reported that the signage is typically turned on fifteen minutes before the opening of the restaurant and is turned off fifteen minutes after the close of the restaurant. Ms. LaPlante also questioned the color of the menu board. Dunkin Donuts Franchisee Joseph Naples explained that an after-market solution will be derived wherein the menu board will not be orange.

Mr. Steadman questioned whether the color of the building as depicted on the plans is the actual color for the building. Attorney Furey explained that Mr. Naples brought to the printer the product who then in turn took the closest color possible to match it to the actual product. Mr. Steadman then confirmed that what is depicted on the drawings is what will be seen from the south elevation.

Mr. Krimmel questioned whether there has been any correspondence received from any abutting property owners either for or against the application. Ms. Mulcahy indicated none have been received.

**MOTION:** Mr. Steadman, Mr. Krimmel second, **to close the public hearing at 8:28PM; unanimously approved.**

The Commission then broke for a ten-minute recess at 8:28PM. They reconvened at 8:39PM.

## **2. PENDING APPLICATIONS:**

**A. Franklin Park Realty, LLC/Applicant – Griffin’s Service Center Inc./Owner – Map 37A – Block 122- Lot 001, 507 Main Street & Map 37A – Block 122 – Lots 1A & 1B Main Street – Site Plan.**

**MOTION:** Mr. Krimmel, Mr. Steadman second, **to approve the application as presented subject to the following conditions:**

- 1. The recommendations of the Architectural Review Committee shall be followed including the provision that there shall be no orange umbrellas and the sign shall be shut off after business hours, and that the menu boards will not be orange;**
- 2. The final signoff for access and drainage from the Connecticut DOT shall be submitted before a zoning permit is issued;**
- 3. The site shall be connected to municipal water and sewer utilities;**
- 4. The sedimentation and erosion control recommendations from the Northwest Conservation District shall be followed;**
- 5. All signs shall comply with Section 6.3 of the Zoning Regulations;**
- 6. Sidewalk shall be connected to the sidewalk proposed by the Town along Route 219; and**
- 7. Final As-Built shall be submitted upon completion of the project; unanimously approved.**

Prior to the vote on the preceding motion, discussion had ensued regarding what conditions should apply. It was noted by the Chairman that should an agreement be reached between the owner and the neighbor regarding the berm, the owner should return with a revised site plan.

**B. Town of New Hartford – Amendments to Town of New Hartford Zoning Regulations – Add Section 5.7. West Hill Pond Protection Overlay District.**

After the Commission discussed the Amendment to add a section of a West Hill Pond Protection Overlay District, it was decided that the first meeting in September would include a work session on this.

**3. NEW APPLICATIONS:**

None.

**4. APPROVAL OF MINUTES: May 25, 2016 and July 13, 2016**

**MOTION:** Mr. Steadman, Mr. Krimmel second, **to approve the July 13, 2016 Minutes; unanimously approved.**

**MOTION:** Mr. Moore, Mr. Stoutenberg second, **to approve the May 25, 2016 Minutes; unanimously approved.**

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

None.

**6. CORRESPONDENCE:**

No business discussed.

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

Mr. Dan LaPlante questioned whether there should be enforcement action regarding the U-Haul trucks which should not be parked out in front of the location of 283 Main Street, but yet have been doing so. Ms. Mulcahy acknowledged having received a call on this and explained that she had reviewed the Minutes, noting that this had not been listed as a condition of approval nor had it been called out as such on the plans. She agreed that the Minutes, in response to a question from Mr. LaPlante, reflected Mr. Karl Nielson indicating that parking the trucks in front of the building was not part of the applicant's plan. Mr. Stoutenberg explained that the final plans did not show the trucks out front and that it was everyone's understanding that the trucks would not be parked out front. Town Clerk Donna LaPlante noted that Ms. Rista Malanca was the Zoning Enforcement Officer at the time of the approval and Mr. Nielson was present at the meeting as an agent representing the applicant, not as the Zoning Enforcement Officer.

Ms. Mulcahy noted that she will visit the site and pursuant to the Commission's request, ask the owners to park these vehicles to the left of the main building at this location.

**MOTION:** Mr. Steadman, Mr. Laplante second, **to adjourn at 9:20PM; unanimously approved.**

**Respectfully submitted,**

**Pamela A. Colombie**  
**Recording Secretary**