

**New Hartford Planning and Zoning Commission  
TOWN OF NEW HARTFORD, CONNECTICUT  
REGULAR MEETING MINUTES  
Wednesday, June 13, 2018 at 7:00 PM  
New Hartford Town Hall  
530 Main Street, New Hartford, Connecticut**

**PRESENT:** Ted Stoutenberg, Dan LaPlante, Bob Moore, and Alternate Tom McLoughlin, and Zoning Enforcement Officer Ruth Mulcahy.

**ABSENT:** Dave Krimmel, Jim Steadman, Alternates Marty Post and Peter Ventre.

Chairman Ted Stoutenberg called the meeting to order at 7:00PM.

**1. PUBLIC HEARINGS:**

None.

**2. PENDING APPLICATIONS:**

None.

**3. NEW APPLICATIONS:**

**A. EMB Realty LLC – Map 044 – Block 136 – Lot 24E – 170 Main Street – Special Exception/Site Plan Modification – No specifics available yet.**

It was noted that the agenda had incorrectly identified the subject property as 144 Main Street when it should have read 170 Main Street.

David Whitney, P.E., appeared before the Commission regarding this application. Mr. Whitney provided a history of approvals granted and work performed at this location, explaining that his work has included reviewing the multiple files at the Land Use Office. He noted that the first survey map was completed in 1973, showing the subject site comprised of three parcels, including the former dog kennel known as 144 Main Street, the vacant lot where the boats are stored known as 156 Main Street, and the site known as 170 Main Street containing the canoe shop and barn. Mr. Whitney noted that a site plan for the main building at 170 Main Street was approved in 2000 with the building being built in 2002. Mr. Whitney noted that a plan for a 40'x50' accessory storage building, the barn, was approved in 2006. Part of that 2006 approved site plan, a topographic survey was completed on the northern portion of the site. He noted that the size of the barn was changed and approved to a 50'x50' accessory storage building in 2011. A "Foundation-Only" building permit was issued at that time and that was poured the same year, 2011, according to Mr. Whitney.

In 2014, the site was cited for a wetlands violation as a pipe from the parking lot had been installed, discharging directly into the Farmington River. The violation was remedied through installation of a catch basin and a pipe going to the south, discharging into a stormwater infiltration system installed on the abutting lot, 156 Main Street. Mr. Whitney noted that an easement was granted in favor of 170 Main Street for this system. He noted that Land Surveyor Marty Post had completed a topographic survey of the southern end of the site.

The history of the four different locations of the shed was also reviewed pursuant to this Commission's request that a plan be compiled showing all of the structures at this site. Mr. Whitney then presented a compilation plan of all the various plans over the past 45 years.

Mr. Whitney noted that the barn is outside of the Farmington River Protection Overlay District (FRPOD). He noted that the original approved location of the shed was outside of the FRPOD but that its current location is within. It was also noted that the paddle shack, the second shed, was also in the FRPOD. Mr. Whitney reviewed the flood elevations, too. It was confirmed that the barn was in the flood plain with the top of the foundation of the barn at 355.29' and the flood plain at 354.6'. The structure was in the flood plain by approximately 8.3", according to Mr. Whitney.

Mr. Moore questioned whether the floor elevations were verified. Mr. Whitney noted that there was an elevation certificate for the foundation of the barn prepared by a licensed land surveyor in August, 2011. Ms. Mulcahy questioned whether the Floodplain District Regulations require that the basement floor be twelve inches above the flood elevation. Mr. Whitney confirmed that the regulations require one foot above the one-hundred year flood elevation, or the building has to be flood-proofed. Ms. Mulcahy questioned whether the barn was flood-proofed. Mr. Whitney was unsure. Mr. Stoutenberg questioned whether this applies to both storage space and inhabitable space. The regulations were reviewed by the Commission.

Mr. Whitney noted that his client believes that the 2011 "foundation-only" approval was conditioned upon returning back to this Commission and believes he did that in 2013. A letter from the Town from 2013 was noted.

The Commission discussed the building's location in the flood plain zone. Ms. Mulcahy noted that she had never seen a building approved in a flood plain ever before. It was noted that the first floor's elevation would need to be one-foot above the flood line and it is currently only eight inches. However, it was uncertain whether the finished floor could be counted as raising it above the flood zone.

The 2006 topography, depicting a depression at the site, had changed, too, sometime since then and 2018, according to Mr. Whitney. Mr. Stoutenberg also noted that there is parking before the barn that is not depicted on the plans. Ms. Mulcahy explained the requirement of compensatory storage, noting that when material is brought onto a site in the flood plain, storage must be created elsewhere on the site to compensate. Mr. Whitney confirmed.

Ms. Mulcahy questioned whether the work performed to address the wetland violation from 2013 should be reviewed to be sure that what was completed corresponds to the approved plans.

Items that the Commission requested from Mr. Whitney prior to an approval for a zoning permit on the barn include:

1. Elevation of the finished floor versus the top of the foundation,
2. Parking and driveway depicted on the plan,
3. Current topography of the site to determine whether there was the necessary compensatory storage created elsewhere on the site,
4. Determination regarding whether the shed will be moved so that it complies with the FRPOD, and
5. As-built of the approved 2014 drainage and infiltration basin.

**B. Jeffrey Buyak – Map 014 – Block 018 – Lot 005 – 1120 Litchfield Turnpike. – Request for Waiver.**

Ms. Mulcahy reminded commissioners that the package store in Bakerville had received approval for a convenience store, conditioned that the only two uses allowed on the site were those two retail uses. She explained that this was done so as to avoid granting the approval in

the negative; that is, instead of including language barring the repair shop. Ms. Mulcahy reported that she recently learned that the residential use of the garage is continuing. She noted that she had indicated to the owners that they needed to get a permit for the automotive repair. According to Ms. Mulcahy, Mr. Buyak has indicated to her that he would like to take the porch off the package store. She indicated that she had advised him that with a zoning violation on the property, no further permits would be granted. Ms. Mulcahy explained that the Zoning Regulations include language whereby an applicant can get a waiver to the site plan requirement if one special permit use is being sought to substitute another special permit use when it is similar in nature.

It was the consensus of the Commission that a request for a waiver is not possible in this situation and that an application needs to be submitted.

As Town Clerk Donna LaPlante was present at this meeting, Mr. Stoutenberg questioned the right of way at this site and whether it was one granted from a previous owner of this location to the neighboring garage. Ms. LaPlante indicated that she would check into it and email the easement to Mr. Stoutenberg.

#### **4. OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION:**

##### **A. Discuss the Subdivision and Zoning Regulations.**

Mr. Stoutenberg indicated that the Commission would review the Subdivision Regulations at the next regular meeting.

Mr. Moore reviewed the changes that he suggests to the Zoning Regulations based on his review of the audio recordings from previous meeting. He also provided copies of the proposed food truck regulation. The Commission agreed to refer the proposed food truck regulation to Attorney Mark Branse for his legal review.

#### **5. APPROVAL OF MINUTES – May 23, 2018:**

The May 23, 2018 Minutes ought to be amended as follows:

The application listed on Page 5, under New Business, that reads, "*B. EMB Realty, LLC – Special Exception/Site Plan Modification – Map 044 – Block 136 – Lot 24E – 144 Main Street – No specifics available yet*" ought to instead read, "*B. PNL Nutmeg - Special Exception/Site Plan Modification – Map 044 – Block 013 – Lot 17A – 283 Main Street – Self Storage.*"

**MOTION:** Mr. McLoughlin, Mr. Moore second, to approve the May 23, 2018 Minutes as amended; unanimously approved.

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

Ms. Mulcahy noted that the owners of an industrial parcel at 31 Industrial Park Road were seeking to demolish an old cement silo. She noted that technically any site plan change needs to come before this commission for approval. Ms. Mulcahy requested authority to grant approval for this demolition with a simple zoning permit.

#### **7. CORRESPONDENCE:**

None.

**MOTION:** Mr. McLoughlin, Mr. Mr. LaPlante second, to adjourn at 8:30PM; unanimously approved.

**Respectfully submitted,**  
**Pamela A. Colombie, Recording Secretary**