

**New Hartford Planning and Zoning Commission  
TOWN OF NEW HARTFORD, CONNECTICUT  
REGULAR MEETING MINUTES  
Wednesday, September 12, 2018 at 7:00 PM  
New Hartford Town Hall  
530 Main Street, New Hartford, Connecticut**

**PRESENT:** Ted Stoutenberg, Dave Krimmel, and James Steadman,  
Alternates Marty Post and Peter Ventre.  
Zoning Enforcement Officer Ruth Mulcahy and First Selectman Dan Jerram.

**ABSENT:** Dan LaPlante, Alternate Tom McLoughlin.

Chairman Ted Stoutenberg called the meeting to order at 7:00PM. Mr. Ventre was seated for Mr. LaPlante.

**1. PUBLIC HEARINGS:**

**A. Ted Crawford, The Sambrook Group/Applicant – Khalid Properties, LLC/Owner – Map 37A - Block 122 – Lot 002 – 513 Main Street – Special Exception for Modification of a Non-conforming Use and Structures for a Gas Filling Station Located in the New Hartford Center Zoning District.**

The legal notice for the public hearing was read into the record with it being noted that it was published the requisite two times, August 31, 2018 and September 7, 2018, in The Hartford Courant. Receipts for the mailings to the abutting property owners providing them notice of this public hearing were submitted.

Ted Crawford, PE, of the Sambrook Group, accompanied by Scott Sambrook appeared before the Commission regarding this application. Mr. Crawford explained that the proposal includes removing and replacing the subsurface fuel tanks and pumps at the Citgo station located on a ½-acre property on Main Street. He noted that the off-site deli sign will also be removed. New lighting and numbers will be added to the current skeleton of the fuel price sign. Additionally, striping will be added to the parking and new screening will be added to the relocated spot of the dumpster, according to Mr. Crawford. He noted that the ice machine will be relocated to the eastern side of the building.

Mr. Crawford reported that the existing septic system on site received the appropriate sign-off from the Farmington Valley Health District.

Ms. Mulcahy reviewed the recommendations provided by the Architecture Review Committee. She noted that no outdoor storage has been proposed for this site and that therefore, the Commission would not be permitting any through this application. She noted that the fuel dispensers should not become signs themselves. Ms. Mulcahy confirmed that there is no expansion of the non-conformity of this lot and that some of the non-conformities were being removed.

The hearing was open to the public.

First Selectman Dan Jerram spoke in favor of the application, noting that there are improvements being made to the site.

New Hartford Fire Chief Mark Worsman questioned whether the proposal included any improvements to the fire suppression under the canopy at the site. Mr. Sambrook indicated that there is no plan to amend what exists in that regard.

Mr. Steadman questioned whether the owner of the site has consulted with the anticipated developer of the neighboring site, a location planned for a Dunkin Donuts, regarding the removal of the berm between the two parcels. Mr. Sambrook indicated that he has not spoken to them about this but believed there may have been discussion between the owner of this site and that developer. It was noted that any alteration of the berm is not included in this site plan.

Mr. Jerram reported that the construction on the Dunkin Donuts site is out to bid and that he has forwarded information contained in this application to their engineer.

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

**B. EMB Realty LLC (John & Linda Casey- Applicant/Owner – Map 044 – Block 137 – Lot 20A – 170 Main Street – Special Exception to Modify the Farmington River Overlay District Buffer – Flood Plain Application for New Structure, Parking, and Sheds and Special Exception – Outdoor Recreational Use for an Accessory Storage Building Located in the Commercial Zoning District.**

The legal notice for the public hearing was read into the record with it being noted that it was published the requisite two times, August 31, 2018 and September 7, 2018, in The Hartford Courant. Receipts for the mailings to the abutting property owners providing them notice of this public hearing were submitted.

David Whitney, PE, appeared before the Commission regarding this application. Mr. Whitney reviewed the twelve-year history of development at the site. He noted that the parcel is located on the easterly side of Route 44 and consists of an existing office/retail canoe rental building as well as an almost-completed accessory 50'x50' storage building to the rear, sometimes referred to as the barn, and also known as 170R Main Street. Mr. Whitney indicated that the use is storage with electric service but no water service, no septic service, and no exterior lighting.

Mr. Whitney explained that he had been retained as the applicant had been requested by the Town to resolve the outstanding issues or concerns at this location. He noted that there was a modified site plan application as well as a Special Exception application related to the barn. He reviewed a correspondence, dated September 6, 2018, from him to this Commission that had been emailed in advance of this public hearing.

Mr. Whitney reviewed the zoning history of this site, noting that the owner also owns the abutting properties of 144 Main Street and 156 Main Street.

Mr. Whitney noted that a condition of an April, 2018 zoning permit required his client to return to this Commission for approval relative to the flood plain issues and additionally, to return to the Architectural Review Committee. Pursuant to an additional request of this Commission, Mr. Whitney reviewed the installation of an infiltration basin and has found it to be substantially correct. He reviewed the landscaping plan presented by his client to the Architecture Review Committee at a September 5, 2018 meeting at which time, a recommendation was made to stagger the proposed eleven (11) six-foot tall white pine trees along the westerly property line to replace the trees that had been previously cut down.

Mr. Whitney reviewed the proposed flood-proofing of the barn after having found that the barn is 5½ inches shy of the required one-foot elevation above the flood level of 354.6' with the grade of the slab of the barn at 355.05. Mr. Whitney reviewed his research for flood-proofing existing buildings, opting for a FEMA suggested method of bolt-on metal shields. He explained that these shields can be bolted on in the event of a flood.

With respect to compensatory storage relative to the flood plain, Mr. Whitney reviewed a topographic comparison plan between 2006 and 2018, estimating that 1255 cubic yards had been added to the site. He reported that he questioned Mr. Casey about the source of the material. According to Mr. Whitney, Mr. Casey indicated that the fill was only brought from the abutting parcel of 156 Main Street, used to merely smooth out the topography. Mr. Whitney opined that as such, the capacity of the flood plain is not reduced and is within the same hydraulic reach.

Mr. Whitney reviewed the history of the location of the shed on the site. He noted that this proposal includes relocating the shed to outside of the Farmington River Protection Overlay District (FRPOD).

Mr. Whitney reviewed the parking proposal noting that there are 28 designated spaces for the primary building including 3 handicap spots. He reviewed a proposal for an additional 43 seasonal spaces, similar to Brodie Park or Ski Sundown, to be included in the grassy areas which will not be paved, graveled, or striped.

Mr. Whitney also reviewed his correspondence relative to the criteria included in the Zoning Regulations for consideration of Special Exceptions. He discussed these criteria, opining that the application has satisfied each and every one of them.

Mr. Stoutenberg read aloud a correspondence to the Commission, dated June 27, 2018, from Farmington River Coordinating Committee Chairman Alison Murdock regarding the buffer zone to the river.

Ms. Mulcahy questioned whether the shed required flood proofing. Mr. Whitney noted that the shed is moveable as it is on blocks and agreed that it could be raised up. Ms. Mulcahy questioned how the flood shields satisfy the requirement and whether just purchasing them and storing them on site is adequate. Mr. Whitney confirmed noting that they need only be purchased and stored but agreed that holes ought to be drilled and the building prepared for installation. Mr. Stoutenberg suggested that there ought to be a trial run and that an instruction manual should be kept on site along with information relative to where the panels are and what tools are needed.

Ms. Mulcahy questioned whether space could be left between the parking spots shown on the site plan, noting that the Zoning Regulations calls for space between every eleven spots. Mr. Whitney agreed to modify the plan to comply with the layout of the intent of the Zoning Regulations.

Ms. Mulcahy questioned whether the proposed site plan included any additional signage. Mr. Whitney indicated that there is not. It was noted that any off-premise signs should be removed, such as the one there currently for a bed and breakfast.

Ms. Mulcahy observed that there was no exterior storage noted on the proposed site plan but for the one canoe rack. Mr. Whitney confirmed. She questioned whether there would any further disturbance of the Farmington River Protection Overlay District. Mr. Whitney confirmed

that there would not be. She questioned whether the accessway will remain a combined grass and gravel and that no new gravel will be installed. Mr. Whitney agreed.

The hearing was open to the public.

Dan Jerram of 535 Town Hill Road spoke in favor of application, opining that Mr. Whitney has done a great job in his attempts to satisfy all the questions and concerns related to this property.

Farmington River Watershed Association, Inc. Interim Executive Director David Sinish read aloud his correspondence dated September 12, 2018 sharing concerns that group had with the site.

Farmington River Coordinating Committee Chairman Alison Murdock shared her appreciation for the careful review made by this Commission.

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

The Commission took a brief recess at 8:18PM. They reconvened at 8:23PM.

## **2. PENDING APPLICATIONS:**

**A. Ted Crawford, The Sambrook Group/Applicant – Khalid Properties, LLC/Owner – Map 37A - Block 122 – Lot 002 – 513 Main Street – Special Exception for Modification of a Non-conforming Use and Structures for a Gas Filling Station Located in the New Hartford Center Zoning District.**

**MOTION:** Mr. Steadman, Mr. Ventre second, to approve the following:

WHEREAS, the Town of New Hartford Planning and Zoning Commission received a Site Plan modification application for a pre-existing non-conforming use, non-conforming signage and structure to replace gasoline storage tanks and install new fuel pumps/dispensers located at 513 Main Street located in NHCD New Hartford Center District which includes an Existing Condition & Removals Plan dated 8/23/18, Layout Plan dated 8/23/18, Site Details dated 8/23/18 C-500 and C-501 prepared by Insite Northeast, 2390 Western Avenue, Guiderland, NY and

WHEREAS, the Planning and Zoning Commission held a public hearing on September 12, 2018;

IT IS THEREFORE RESOLVED that the New Hartford Planning and Zoning Commission approves the proposed modifications for a pre-existing non-conforming service station use with the following conditions:

1. The freestanding sign shown on the adjacent property shall be removed before any permits are issued for the proposed work with this site.
2. The existing freestanding sign located on the property shall be contained on the property and there shall be no overhang on the adjoining property without a state permit.
3. The existing roof sign is non-conforming and if removed for any reason shall be placed in a location in accordance with Article 6, Section 6.3.
4. No outdoor storage of any items is permitted with this approval.
5. The existing ice machine is currently in a location proposed for handicap parking. The new outdoor location for the ice machine shall be recessed and approved by the Land Use Administrator.
6. All exterior lights located on the entire site shall be full cutoff lighting in compliance with Article 6 Section 6.4.

7. The recommendations of the Architectural Review Committee shall be followed and shown on the final site plan. The recommendation to screen the dumpster with fencing, remove the sign on the adjacent property, the existing freestanding sign be replaced with a sign no larger and the fuel dispensers be of a type and size of the previous dispensers with updated branding as present shall be followed.
8. The final revised map shall include the conditions of approval and shall be filed on the Land Records with a signature of the Chairman of the Planning and Zoning Commission in order for this approval to be valid.
9. A Knox box shall be installed as per the regulations.

*Motion passed with Mr. Krimmel, Mr. Steadman, Mr. Stoutenberg, and Mr. Ventre voting aye.*

**B. EMB Realty LLC (John & Linda Casey /Applicant/Owner – Map 044 – Block 137 – Lot 20A – 170 Main Street – Special Exception to Modify the Farmington River Overlay District Buffer – Flood Plain Application for New Structure, Parking, and Sheds and Special Exception – Outdoor Recreational Use for an Accessory Storage Building Located in the Commercial Zoning District.**

**MOTION:** Mr. Steadman, Mr. Krimmel second, to approve the following:

WHEREAS, the Town of New Hartford Planning and Zoning Commission received a Site Plan modification application for an accessory 50'x50' storage building to be used only for the principal canoe business use on the property and a Special Exception application for the Flood Plain Overlay Protection District and the Farmington River Overlay District located at 170 Main Street in a Commercial District which includes Modified Site Plan for EBM Realty LLC Lot 1 date 6/11/18 with a final revision date of 8/20/18 prepared by David Whitney, Consulting Engineers, LLC, 21 Arch Road, Avon, CT 06001 and

WHEREAS, the Planning and Zoning Commission held a public hearing on September 12, 2018:

IT IS THEREFORE RESOLVED that the New Hartford Planning and Zoning Commission approves the Site Plan modification application for an accessory 50'x50' storage building to be used only for the principal canoe business use on the property along with a Special Exception application for the Flood Plain Overlay Protection District and the Farmington River Overlay District with the following modifications:

1. This application refers to 170 and 170R Main Street. The map titled Modified Site Plan for EBM Realty LLC by David F. Whitney, Consulting Engineers, LLC dated June 11, 2018 with a final revision date of 8/20/18 indicates one parcel of land. This lot, as presented to the Planning and Zoning Commission, shall be reflected in the deeds for the property known in the Town of New Hartford as 170 Main Street as one lot.
2. Flood proofing of the new storage building, and any structures located in the Flood Plain Overlay District shall meet the standards of Article 5.2 M. Standards and Requirements. All other requirements of the Flood Plain Overlay District shall be followed. The flood proofing shields shall be purchased and prepared to be installed for the storage barn. The instruction manual for the flood shields should be on site along with the tools to bolt them in. The shed on site should be above flood proof.
3. Zoning permits are required for any structures on the property for which the location is approved with this motion. Moving the location of shed buildings requires a zoning permit and shall be subject to the requirements of Flood Plain Overlay District. The use of all accessory buildings, including the new storage barn, shall be related to the principal canoe business use.
4. Excavations of the site or future grade changes are not permitted with this approval.

5. All exterior lights on the entire site shall be full cutoff lighting in compliance with Article 6 Section 6.4.
6. No additional signage is permitted with this approval, including off site signage for off site businesses. All signage not approved by the Planning and Zoning Commission shall be removed.
7. The recommendations of the Architectural Review Committee shall be followed and shown on the final site plan. The recommendation to plan 11 evergreen trees of a minimum height of 6 feet planted in a staggered pattern shall be followed. This approval is predicated on the planting of the trees along Main Street.
8. No exterior storage, other than the one canoe rack shown on the submitted Site Plan, is permitted on this property.
9. No further disturbance is permitted in the Farmington River Protection Overlay District including removal of trees or earth materials.
10. The new grass parking spaces, shown on the Modified Site Plan dated 8/20/18, shall comply with Article 6.2 Parking and Loading of the Town of New Hartford Zoning Regulations and shown on the final plan in compliance with the Zoning Regulations.
11. The access way shown on the site plan shall remain grass and gravel.
12. The final revised map, confirming the site is one lot, shall include the conditions of approval and shall be filed on the Land Records with a signature of the Chairman of Planning and Zoning Commission in order for this approval to be valid.
13. A Knox box shall be installed as per the regulations.
14. There shall be no removal of trees or vegetation on the site.

*Motion passed with Mr. Krimmel, Mr. Steadman, Mr. Stoutenberg, and Mr. Ventre voting aye.*

### **3. NEW BUSINESS:**

#### **A. James E. & Susan J. McCann – Map 04A – Block 112 – Lot 8\_8B – 588 West Hill Road – Recognition of Subdivision.**

Ms. Mulcahy explained that the Subdivision Regulations were adopted in New Hartford in 1957. She explained that this lot was created through a map that was filed relative to this property in 1958, unsigned and not titled a subdivision map. Ms. Mulcahy noted that the lot in question is landlocked despite the Subdivision Regulations mandating that new lots must have frontage along an accepted street. She reported that all of this information had been provided to Land Use Attorney Mark Branse who advised that it come before this Commission in order for the applicants to receive approval of the parcel as a subdivision lot. She recommended that all of the information be returned to Attorney Branse for guidance on how this group can approve it.

James McCann, accompanied by First Selectman Dan Jerram, appeared before the Board regarding this application. He distributed copies of the aforementioned 1958 map. Mr. McCann reviewed the history of conveyances of the lots in the vicinity of the lot in question.

**MOTION:** Mr. Steadman, Mr. Ventre second, to schedule a public hearing in this matter for October 10, 2018; unanimously approved.

#### **B. PNL Nutmeg LLC- Dan Levitan, Manager – Map 044 Block 013 – Lot 17A n- 283 Main Street – Special Exception – Amend Existing Conditions. (Set for Public Hearing October 10, 2018)**

Dan Levitan appeared before the Commission regarding this application. Reference was made to a recently approved Special Exception at this location with Ms. Mulcahy explaining that the only issue that may be discussed regarding any changes to the existing conditions was that of the location of the fence. She noted that the installation of a fence was a condition of approval but the precise location of it had not yet been determined.

**MOTION:** Mr. Steadman, Mr. Ventre second, to schedule a public hearing in this matter for October 10, 2018; unanimously approved.

**C. Frank & Davion Loyot/Owner – Map 017 – Block 039 – Lot 021 – 146 Burwell Road – Special Exception – Internet Store Selling Homemade Dog Treats – Packaging Done Inside Home. No Outside Use of Any Kind Located in an R-2 Residential Zone. (Set for Public Hearing October 10, 2018)**

**MOTION:** Mr. Steadman, Mr. Ventre second, to schedule a public hearing in this matter for October 10, 2018; unanimously approved.

**D. Lisa Guertin/Applicant – Lucky 13 Partners, LLC/Owner – Map 034 – Block 009 Lot 27A – 207 Southeast Road – Special Exception - Accessory Dwelling in an Accessory Structure Located in an R-2 Residential Zoning District. (Set for Public Hearing October 10, 2018)**

**MOTION:** Mr. Steadman, Mr. Ventre second, to schedule a public hearing in this matter for October 10, 2018; unanimously approved.

**E. Dean's Stove & Spa LLC (Dean Michchonczyk)/Applicant – 57 West Main St. LLC/Owner – Map 44A – Block 117 – Lot 009 – 376 Main Street – Special Exception – Change of Use From Home Occupation to Retail.**

**MOTION:** Mr. Steadman, Mr. Ventre second, to schedule a public hearing in this matter for October 10, 2018; unanimously approved.

**F. Damiro Realty LLC/Owner – Map 44A – Block 117 – Lot 008 – 8 Wickett Street – Special Exception – Change in Use – Location Approval.**

**MOTION:** Mr. Steadman, Mr. Ventre second, to schedule a public hearing in this matter for October 10, 2018; unanimously approved.

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

**A. PNL Nutmeg LLC- Dan Levitan, Manager – Map 044 Block 013 – Lot 17A n- 283 Main Street – Discuss Final Fence Location.**

There was discussion about whether the site is a Commercial Use or an Industrial site. Mr. Stoutenberg maintained that the site is a commercial site and not an industrial site.

Mr. Levitan reported that the proposed road widening has not occurred at the site due to conditions with the State, further explaining that the expansion would impinge upon an environmentally sensitive area. He noted that the fence could not be installed as previously planned due to the same reason.

It was noted that Mr. Levitan has worked with the Pine Meadow Farms neighbors whose properties would have fences installed, primarily Anthony Truss of 1 Turkey Hollow.

Discussion ensued regarding the compromise reached between Mr. Levitan and the property owners along the boundary to the brewery at 283 Main Street. Mr. Stoutenberg read aloud an agreement that indicated a fence, with a maximum height of six (6') feet would be installed atop a berm of 1 Turkey Hollow and 1 Park Meadow at the expense of PNL Nutmeg, LLC. It noted that no trees would be cut in this process. The agreement also indicated that 3 Turkey Hollow and 5 Turkey Hollow have agreed to not have a fence, according to the document.

**MOTION:** Mr. Steadman, Mr. Ventre second, to accept the agreement as a solution to the fence problem; unanimously approved.

**5. APPROVAL OF MINUTES – July 11, 2018:**

**MOTION:** Mr. Steadman, Mr. Krimmel unanimous second, to approve the July 11, 2018 Minutes; Motion approved with Mr. Stoutenberg, Mr. Steadman, and Mr. Krimmel voting aye while Mr. Ventre abstained.

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

Mr. Stoutenberg noted that the proposed update to the Subdivision Regulations ought to be scheduled for a public hearing with appropriate notice to the abutting towns and the Council of Governments.

Discussion also ensued regarding the appointment to fill the vacancy created by the resignation of former Commissioner Bob Moore. Questions regarding the necessary party status of the person chosen to fill the seat were raised. As uncertainties remained, Mr. Jerram agreed to seek a legal opinion from town counsel in this regard.

**7. CORRESPONDENCE:**

None.

**MOTION:** Mr. Ventre, Mr. Mr. Steadman second, to adjourn at 9:24PM; unanimously approved.

**Respectfully submitted,**

**Pamela A. Colombie  
Recording Secretary**