

**New Hartford Planning and Zoning Commission  
TOWN OF NEW HARTFORD, CONNECTICUT  
REGULAR MEETING MINUTES  
Wednesday, October 10, 2018 at 7:00 PM  
New Hartford Town Hall  
530 Main Street, New Hartford, Connecticut**

**PRESENT:** Ted Stoutenberg, Dan LaPlante, James Steadman, Marty Post and Alternate Tom McLoughlin.

**ABSENT:** Dave Kimmel, and Alternate Peter Ventre.

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

Also present for the meeting was First Selectman Dan Jerram and counsel to the Commission, Attorney Mark Branse.

**1. PUBLIC HEARINGS:**

**A. PNL Nutmeg, LLC/Owner – Map 044 Block013 Lot 17A – 283 Main Street – Special Exception – Amend the Existing Certificate to Waive State Traffic Commission Approval.**  
Mr. Stoutenberg reported that the legal ad for the hearing had not been advertised.

**MOTION:** Mr. Steadman, Mr. McLoughlin second, to reschedule the public hearing for November 14, 2018; unanimously approved.

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

It was noted that the legal notice for this application had been published in The Hartford Courant the requisite two times, September 28, 2018 and October 5, 2018. The receipts providing proof that notice had been sent to the abutting property owners was noted as having been received.

James McCann appeared before the Commission regarding this application. He noted that he was seeking recognition of a subdivision from 1958. He referred to both a survey from that time (lots D and E) as well as a current assessor's map (lots 8 and 8B).

Mr. McCann noted that the Subdivision Regulations were originally approved and effective on June 3, 1957. However, there was never a sign-off by the chairman at the time the survey was filed nor were minutes kept of commission meetings until the 1960s. Mr. McCann relayed the sixty-year title history of the subject property, including the conveyance from his sister by which he became the owner. Mr. McCann noted that he, and his sister before him, have been paying taxes on the lot as a buildable lot.

Mr. McCann reported that the title insurance company agreed with his own attorney, Skip Rogers, that the map was not signed nor were Minutes kept.

Attorney Branse explained the findings of his research in that the Subdivision Regulations as adopted in 1957 and pursuant to the statutes of that time mandated that all subdivision maps shall be endorsed and signed by the chairman or secretary of the Planning and Zoning Commission and filed with the town clerk. He noted that because in this case, the map does not indicate that it is a subdivision nor is it signed, the question is whether the commission approved it. Attorney Branse reported that Attorney Rogers found another map filed around the same time reflecting division which was also unsigned. He confirmed that there are no minutes.

Attorney Branse clarified that the application that is before them reflecting approval for a subdivision is not accurate as this Commission would not be able to approve it as such because it would not meet the current Subdivision Regulations. Attorney Branse explained that the Commission is acting under Connecticut General Statutes Section 8-26, which gives them the authority to determine whether the existing division of any land constitutes a division or subdivision of that chapter. In other words, the Commission was not to approve the subdivision of the parcel but rather to make a determination as best they can whether it was approved in 1958. Mr. Stoutenberg questioned whether any assumption can be made from the building permits for the other property owners in this purported subdivision. That was the argument used by Attorney Rogers, according to Attorney Branse. He noted that it is circumstantial evidence as there are not minutes.

Mr. Steadman questioned whether the applicants have deeded access to the right-of-way to access the lot. Mr. McCann confirmed. Mr. Stoutenberg questioned whether the land had ever been perc tested. Attorney Branse noted that this commission cannot waive the State health code and that any potential construction on the site would be required to comply with the current health code in this regard.

Attorney Branse questioned Mr. McCann whether he agreed that if this Commission finds that this lot is a subdivision lot, it would be subject to current Zoning Regulations in terms of setback, coverage and FAR (floor to area ratio). Mr. McCann agreed.

The hearing was open to the public.

Donna LaPlante of 77 Stedman Road and identifying as the Town Clerk, spoke in favor of the application, confirming that many maps from that time period are unsigned. She noted that it took many years before the Town hired a Zoning Enforcement Officer.

Clint Gilbert of 596 West Hill Road spoke in favor of the application, sharing his observations of the oddity of lots in that area.

Dan Jerram of 535 Town Hill Road and identifying as the First Selectman, noted that research into the standard at the time would likely reveal inadequate staffing with a new system coming into the place at that time during the 1950s.

**MOTION:** Mr. Steadman, Mr. Post second, to close the public hearing; 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.**

The legal ad was read into the record. It was noted that the legal notice for this application had been published in The Hartford Courant the requisite two times, September 28, 2018 and October 5, 2018. The receipts providing proof that notice had been sent to the abutting property owners was noted as having been received.

Frank Loyot appeared before the Commission regarding this application. He indicated that the proposal is to mix together an organic powered dog treat mix at his home. Mr. Loyot noted that he has propane businesses in the towns of Sharon and Torrington from which the shipment of the products would occur. He noted that there would be no retail aspect at his home in terms of customers coming to his house. Mr. Stoutenberg questioned whether there is a sign proposed. Mr. Loyot indicated that there would not be. Mr. Steadman questioned whether he would have any employees. Mr. Loyot indicated that there would be none.

The hearing was open to the public.

Donna LaPlante of 77 Steadman Road spoke in favor of the application noting that home occupation is the how many businesses begin and functions as a good way to test the market.

Dan Jerram of 535 Town Hill Road also spoke in favor of the application.

**MOTION:** Mr. Steadman, Mr. McLoughlin second, to close the public hearing; 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.**

The legal ad was read into the record. It was noted that the legal notice for this application had been published in The Hartford Courant the requisite two times.

Mr. Jerram reported that Ms. Guertin had requested that he address the Commission on her behalf and explained that she had been unsure about the mailing requirements. He explained that approval on this application is sought after-the-fact, noting that as the building is so far away, the applicant had questioned whether there is some type of radius requirement or exemption due to that distance.

**MOTION:** Mr. Steadman, Mr. Post second, to open the hearing and based on the testimony of the First Selectman, continue the matter to November 14, 2018 at 7:00PM in the Sessions Conference Room at Town Hall; unanimously approved.

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

It was noted that the legal notice for this application had been published in The Hartford Courant the requisite two times, September 28, 2018 and October 5, 2018.

It was discovered that the neighbors had inadvertently not been sent proper notice of the public hearing.

**MOTION:** Mr. Steadman, Mr. Post second, to continue the public hearing until October 24, 2018 at 7:00PM in the Sessions Conference Room at New Hartford Town Hall; unanimously approved.

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

The legal ad was read into the record. It was noted that the legal notice for this application had been published in The Hartford Courant the requisite two times.

Dan Coutu appeared before the Commission regarding this application. Mr. Coutu explained that the current business is automotive machining such as brake rotors but is seeking to include automotive repair at that location. He explained that there is currently automotive repair in the other corner of the building.

The hearing was open to the public.

Donna LaPlante of 55 Steadman Road spoke in favor of the application, noting that Mr. Coutu has owned the building for a very long time and has always been a good neighbor.

Mr. Post questioned what will happen to the fluids generated from the site. The operator of the shop indicated that the transmission fluids will be stored in a 30-gallon plastic drum while there is a 250-gallon container for waste oil.

Dennis Murphy of 14 Wickett Street questioned whether there would be an increase in traffic or whether there would be an increase in junk cars outside. The operator indicated that there would not be. Mr. Murphy also expressed concerns with the fluids that will be stored.

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

## **2. PENDING APPLICATIONS:**

**A. PNL Nutmeg, LLC/Owner – Map 044 Block013 Lot 17A – 283 Main Street – Special Exception – Amend the Existing Certificate to Waive State Traffic Commission Approval.**  
No business discussed and no action taken.

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

**MOTION:** Mr. Steadman, Mr. McLoughlin second, that the Planning and Zoning Commission finds, in accordance with Connecticut General Statutes Section 8-26, that the parcels depicted as D and E on the plan, “Plan of the Land Property of Henry M. and Eleanor David” submitted to the Commission, was approved as a subdivision lot in 1958 despite the lack of endorsement on the map on file in the Town Clerks office and that the two merged parcels constitute a single approved subdivision lot, subject to approval by the Farmington Valley Health District and subject to compliance with the current Zoning Regulations, other than compliance with lot size, and that the Commission authorizes its Chairman or Secretary to endorse a map or plan depicting such parcel as a subdivision lot for the filing with the Town Clerk; 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.**

**MOTION:** Mr. Post, Mr. McLoughlin second, to approve the application in the matter of 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; 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.**

No business discussed and no action taken.

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

No business discussed and no action taken.

**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. McLoughlin second, to approve the application in the matter of Damiro Realty, LLC/Owner – Map 44A – Block 117 – Lot 008 – 8 Wickett Street – Special Exception – Change in Use – Location Approval subject to the following conditions:

1. No repair of vehicles in the yard; and
2. No unregistered vehicles in the yard; and
3. Subject to applicant receiving state approval;

*Unanimously approved.*

**3. NEW BUSINESS:**

None.

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

Mr. Stoutenberg noted that he would like to review the Subdivision Regulations at the next meeting. Prior to his leaving, Attorney Branse reminded the Commission about the land use bi-annual training, scheduled for Saturday, March 23, 2019 to be held at Wesleyan University. Mr. Jerram confirmed that the Town covers the registration fee for commissioners for this training.

**5. APPROVAL OF MINUTES – September 26, 2018:**

The September 26, 2018 Minutes should be amended as follows:

The Motion to adjourn was made by Mr. Steadman and not Mr. Ventre.

**MOTION:** Mr. Steadman, Mr. Post second, to approve the September 26, 2018 Minutes as amended; unanimously approved.

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

Mr. Jerram reported that former town Land Use Administrator Rista Malanca has agreed to do inspections for this commission as well as the Inland Wetlands Commission.

**7. CORRESPONDENCE:**

None.

**MOTION:** Mr. Post, Mr. Mr. Steadman second, to adjourn at 8:15PM; unanimously approved.

**Respectfully submitted,**

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