

**New Hartford Planning and Zoning Commission  
TOWN OF NEW HARTFORD, CONNECTICUT  
REGULAR MEETING MINUTES  
New Hartford Town Hall – 530 Main Street  
Wednesday, November 10, 2021 at 7:00 PM**

**PRESENT:** Chairman Ted Stoutenberg, Marty Post, Jim Steadman, Alternate Robert Goodskey; Zoning Enforcement Officer Mike Lucas, and Town Attorney(s) Mark Branse and Andrew Morin.

**ABSENT:** Mike Misiorski, Alternates John Burdick and Jack Casey.

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

**1. PUBLIC HEARINGS:**

**A. Garrett Homes, LLC/Applicant – Satans Kingdom, LLC/Owner – Map 044 – Block 013 – Lot 020 – 173A Main Street – Special Exception – Retail Building – 9100 Sq. Ft. – 25% Deferred Parking.**

Following the opening of the public hearing, Mr. Stoutenberg questioned whether the application can proceed after the legal notice indicated a proposal for a 9100 square foot retail building when the design was for a retail building with 9400 square feet. Attorney Robin Pearson of Alter and Pearson, LLC, had appeared before the commission regarding this application. She explained that the building was 9100 square feet without the bumpout. Attorney Pearson suggested two options. One was that this commission could add a condition to an approval of the application that increased the size for bumpouts as an added architectural interest. She noted that there had been no indication from members of the public that they were okay with one size but not okay with another. Alternatively, Attorney Pearson indicated that her clients would be amenable to removing the bumpout.

Attorney Branse suggested that the removal of the bumpout presents issues in that the Design Standards calls for breaks in wall lines, noting that they are supposed to be on the front and sides. He explained that deleting the bumpout might resolve the legal notice issue but could cause a substantive one in terms of approval. Attorney Branse noted that the legal issue is supposed to provide indication to the public of what it is that is being proposed. He explained that the legal notice did not have to provide an exact forecast of what it is to be considered but must be sufficient so that people can prepare for the hearing and so people understand what it is that is being proposed. Attorney Branse was unsure what a court would do with this and whether it was a significant discrepancy.

Mr. Stoutenberg noted that the discrepancy was not limited to the bumpout as it also included the overhang that is outside the doors and other bumpouts that did not have dimensions included.

Architect Doug Bruner explained that the bumpouts on either side are included to articulate the façade and to break it up. He indicated that they are only decorative and are not part of the square footage of the building. Mr. Stoutenberg opined that they added area to the building. Mr. Bruner disagreed, noting that the bumpouts are an applied architectural element. Mr. Stoutenberg read from Section 3.4.E. of the Zoning Regulations noting that the area of the building is based on the outside dimensions. Mr. Bruner questioned whether the exterior wall was to mean the exterior of the foundation. Mr. Stoutenberg noted that if the portion of roof eaves or overhangs projects less than 24" from the wall, then it need not be counted but that if it projects more than 24", it is included. Attorney Branse questioned whether the side bumpouts

were less than 24". Mr. Bruner confirmed. Attorney Branse questioned whether the foundation projects less than 24". Mr. Bruner confirmed. Attorney Branse questioned whether the overhang in the front of the building was more than 24". Mr. Bruner confirmed that the canopy over the doors was about 4' but noted that it could be removed or could be reduced to 24".

Mr. Stoutenberg questioned whether the applicant wanted to withdraw the application. Attorney Pearson confirmed that her clients wanted to proceed with the application with the building as depicted on the plan, sized at 9300 square feet with the bumpouts removed.

Attorney Pearson noted that she had submitted in summary form all of the reasons why the applicant is comfortable with the application pending before this commission and was responsive to concerns that were part of the denial of what her team refers to as the "second application". Attorney Pearson noted that her summary addressed the waiver, reminding the commission that there had been a question regarding what had changed with respect to the waiver request. She explained that the physicality had not changed for the temporary parking deferral. Attorney Pearson reminded the commission that the Zoning Regulations encourage reduced parking and that those deferrals are part of the regulations. She noted that the additional information provided included the report from the Architectural Review Committee that included the unanimous recommendation that this commission reverses their previous decision and allow the parking deferral this time.

Professional Engineer Matthew Brutin reviewed the comments that had been provided by the Town and the applicant's responses to those. Mr. Post questioned the area depicted for sidewalk and road. Mr. Brutin explained that a future trail area was depicted on the plans should the Town undertake it and what was shown was information on how the applicant would connect to it. Mr. Post questioned whether there was a sidewalk proposed. Mr. Brutin indicated there would not be. Referring to a note identified as Item 2 on page 3 of 19, Attorney Branse indicated that the applicants included photographs of other buildings in the area, and an assertion that those properties do not have as much landscaping as this application. He questioned whether Mr. Brutin or Attorney Pearson knew the dates of when those buildings were constructed and whether they were constructed before or after the adoption of the zoning guidelines. There was no information provided on whether they were constructed or whether they were constructed either before or after the adoption of the zoning guidelines. Attorney Branse explained that while the commission may have made the mistake once, it does not condemn them to make the same mistake forever and would not preclude them from requiring landscaping. Mr. Brutin indicated that the applicant deemed the proposed landscaping as sufficient regardless of the other properties noted.

Mr. Stoutenberg noted that the undeveloped site behind the subject parcel could be developed in the future and that this proposed development would be very visible from this location. Mr. Bruner indicated that it is not visible from the public way and despite it being visible with future development, the area in the back of the site is a wetland and will not be clear cut. Attorney Pearson noted that the applicant was amenable to modifying the back wall if the commission were to request it. In response to an inquiry from Mr. Stoutenberg regarding a revised floor plan, Mr. Bruner confirmed that the applicant intended to submit a revised site plan with a detail outlining the square footage and dimensions.

Attorney Pearson requested that the hearing be kept open so that the public hearing could be readvertised and the drawings could be revised. She further requested that if the commission wanted a different species of trees or awnings over the windows, it be noted. Attorney Branse explained that it is not the role of the commission to design the proposal and that it was incumbent upon the applicant to conform to the zoning regulations. Mr. Stoutenberg reminded

the applicant that the request to reduce the parking was denied with the last application and questioned whether there was any additional information to be presented. Attorney Pearson indicated that there was nothing additional beyond her anecdotal account, anecdotal information from two of the Architecture Review Committee members, and their unanimous recommendation that it be approved. Mr. Lucas shared his opinion, supporting the parking deferral. Mr. Stoutenberg provided his own anecdotal evidence, reporting his passing the Dollar General in Barkhamsted on a Tuesday afternoon wherein there were only two or three empty parking spaces. Matt Eucalitto, speaking as a member of the applicant's team, noted that the Barkhamsted lot is shared with another store, explaining that there is no real way of knowing where people are shopping.

Referring to the photographs of the other properties that had been submitted regarding landscaping, Mr. Stoutenberg relayed the history of when the buildings were constructed.

The hearing was open to the public.

Donna LaPlante of 77 Steadman Road spoke in favor of the application. She opined the proposal as being compatible to the neighborhood, reminding the commission that Pine Meadow Farms includes some affordable housing units within it.

Heidi Gallagher of 211 Holcomb Hill Road shared her concerns with abandonment of the building in the future if there is not an established need for this store.

**MOTION:** Mr. Post, Mr. Steadman second, to continue the public hearing to the December 8, 2021 regular meeting of the commission at 7PM at Town Hall; unanimously approved.

## **2. PENDING APPLICATIONS:**

**A. Garrett Homes, LLC/Applicant – Satans Kingdom, LLC/Owner – Map 044 – Block 013 – Lot 020 – 173A Main Street – Special Exception – Retail Building – 9100 Sq. Ft. – 25% Deferred Parking.**

No business was discussed.

## **3. NEW BUSINESS:**

None.

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

**A. Workshop on Planned Housing Development Zoning Amendment with Attorney Mark Branse.**

Attorney Branse led a discussion on the draft zoning amendment. He reported that each lane on a private boulevard would still need to be a minimum of at least 10' in width to comply with the Fire Code. If the Fire Chief recommends the roads be wider, the commission may require it, according to Attorney Branse. He questioned whether the private roads should be constructed per the same standards as the subdivision specs. Mr. Lucas thought this made sense.

The consensus of the commission was that Multifamily use could be added in business districts.

It was noted that a public hearing would likely be scheduled in January.

Tim Brobroske noted that he wanted to make sure the Commission was familiar with the Fair Housing Act for older persons.

**5. APPROVAL OF MINUTES: October 27, 2021 and October 13, 2021.**

**MOTION:** Mr. Steadman, Mr. Post second, to approve the October 27, 2021 Minutes; unanimously approved.

**MOTION:** Mr. Steadman, Mr. Post second, to approve the October 13, 2021 Minutes; unanimously approved.

The consensus of the commission was to add an agenda item to approve the 2022 regular meeting schedule.

**6. OTHER BUSINESS:**

**A. 2022 Regular Meeting Schedule.**

**MOTION:** Mr. Steadman, Mr. Post second, to approve the 2022 regular meeting schedule as presented; unanimously approved.

**7. ZONING OFFICERS REPORT.**

Mr. Lucas reported his having met with the owners of 495 Town Hill Road who had indicated that a floor plan would be provided as well as the uses he intends within his garages. Mr. Lucas reported that the property owner intends to use the property for his own personal use and not commercial use.

Mr. Stoutenberg noted that an organizational meeting was overdue. He reminded the commission that all regular members need to be present for this type of meeting.

**8. CORRESPONDENCE:**

**MOTION:** Mr. Steadman, Mr. Goodskey second, to adjourn at 8:57PM; unanimously approved.

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