

**New Hartford Planning and Zoning Commission
TOWN OF NEW HARTFORD, CONNECTICUT
REGULAR MEETING MINUTES
New Hartford Town Hall – 530 Main Street
Wednesday, June 23, 2021 at 7:00 PM**

PRESENT: Chairman Ted Stoutenberg, Mike Misiorski, Marty Post, and Jim Steadman, Alternates John Burdick and Robert Goodskey; Zoning Enforcement Officer Mike Lucas, First Selectman Dan Jerram, and Attorney Mark Branse.

ABSENT: Dan LaPlante and Alternate Jack Casey.

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

1. PUBLIC HEARINGS:

None.

2. PENDING APPLICATIONS:

A. Garrett Homes LLC/Applicant – Satans Kingdom LLC/Owner – Map 044 – Block 013 – Lot 020 – 173A Main Street – Special Exception – 9100 Square Foot Retail Building/Dollar General; and, 25% Parking Reduction per Section 6.2 E. 5. Temporary Instillation Deferral.

It was noted that a public hearing had been scheduled for July 14, 2021.

B. Lepore & Sons LLC/Applicant – Matthew & Elizabeth Larke/Owner – Map 034 – Block 012 – Lot 6-02 – 8 Garrett Ridge Court – Special Exception – Accessory Dwelling Unit.

It was noted that a public hearing had been scheduled for July 14, 2021.

C. Daniel Raymond/Applicant – Daniel A. & Rebecca D. Raymond/Owner – Map 007 – Block 003 – Lot 19E – 18 Ramstein Road – Special Exception – Section 3.6A Event and Recreation Center.

It was noted that a public hearing had been scheduled for July 14, 2021.

3. NEW BUSINESS:

None.

4. OTHER BUSINESS TO COME BEFORE THE COMMISSION:

A. Commission Planning Workshop with Attorney Branse.

Tim Bobroske appeared before the Commission to discuss his development plans with the Caron and Caron property on Main Street, next to the former Waring Building. He and his wife already own four similar communities including Canterbury Village located on Reservoir Road in New Hartford, all of which more information is made accessible through their website www.seniorhousingct.com, according to Mr. Bobroske.

Mr. Bobroske reported having a letter of intent on the 50-acre parcel on Main Street provided he obtain three items from the town: a tax abatement from the Town of New Hartford, modifications to the requirements for connection by the Water Pollution Control Authority (WPCA), and a text amendment to allow multi-family in a commercial zone at this property. Mr. Bobroske noted the road that would be created for this development would be for 110-150 units. He explained that only a portion of this development would be age-restricted with the remaining to be “age-targeted”. He indicated that the first 60 units would be age-restricted and

would likely be a single floor. Mr. Bobroske explained that the rest of the development would be age-targeted, which would include townhouse style units which could be utilized for other people seeking to live in New Hartford.

Mr. Misiorski questioned the age-restricted component. Mr. Bobroske briefly explained that the Fair Housing Act includes 80% of a development as limited to at least one person being aged 55 or older. He explained that the remaining 20% of units can be made available to anyone. Attorney Branse noted that the regulations are typically drafted to allow a surviving spouse of the age-restricted eligible individual to remain.

Mr. Jerram noted that there is a waiting list in town of individuals seeking to down-size and get into the age-restricted development. He indicated that this type of project could alleviate a pressing need. Mr. Jerram noted that it typically includes people without children and that the units would be added as water/sewer users.

Attorney Branse questioned whether Mr. Bobroske had considered an application under the provisions of Connecticut General Statutes Section 8-30(g) which would require no changes to the Zoning Regulations. Mr. Bobroske explained that there would be very few funds available for that type of development from the State of Connecticut. He explained that people seeking to downsize are seeking more square footage and that there was more money to be gained from the project with these larger units. For this reason, Mr. Bobroske preferred to not go that route. Attorney Branse clarified that the inquiry was more related to zoning than the state-grant program. He explained that the affordable units have to be of comparable quality but need not be the same size.

Attorney Branse shared a concept called a Floating Zone, cautioning that to just add the use as an allowed zone would thereby allow it in all commercial properties.

With regards to the remainder of the planning workshop, Mr. Stoutenberg questioned recent legislation from the State of Connecticut. Attorney Branse reviewed some of what has recently come from the General Assembly. He noted that the statutes now require as an accessory use, in any service establishment which is not limited to just restaurants but may also for example include a food truck, and towns must allow outdoor dining by administrative review by a ZEO or a Commission. Attorney Branse explained that there is an opt-out clause but that to do so, it must be done by the deadlines included in the legislation. He indicated that there are deadlines for opt-out options for all of the various uses including outdoor dining and accessory dwelling units.

Attorney Branse suggested that the town already has regulations for medical marijuana dispensaries but that one for recreational ought to be reviewed and considered. He noted that towns cannot restrict the public use of recreational marijuana, although restrictions can be made for use on public streets or public property.

Attorney Branse noted that virtual meetings are not required and indicated that hybrid meetings are permissible. However, if a virtual or hybrid meeting is to be held, towns must provide a public place where people have access to a terminal, according to Attorney Branse. He explained that with the phrasing of the Act, it is sufficient to give a person a phone. A public place such as a library or town hall would need to be designated to allow a person seeking to participate electronically. A format has to be decided 48 hours ahead of the meeting, according to Attorney Branse.

Regarding multi-family housing in a commercial zone, Mr. Stoutenberg noted that the Subdivision Regulations require a second egress as well as a designated Open Space. He noted that the Commission has also always intended for water and sewer to be part of a downtown housing development. Attorney Branse suggested a floating zone to allow age-restricted development in the C-zone. He explained that getting new commercial zoning can be challenging and that the Town should be sure that there is enough of it to meet future needs for retail, services, and employment opportunities. He noted that what is beneficial to a floating zone is the Commission reviews what is being proposed prior to an actual zone change including the general layout, unit density, the open space designation, basic architecture, road layout, and how utilities will be provided. Attorney Branse explained that this allows the developer to save on the detailed engineering and only after the floating zone is approved, the applicant presents with the more detailed landscaping and stormwater management.

With a floating zone, Attorney Branse explained that the text is contained within the Zoning Regulations but that it would not be identifiable on a Zoning Map anywhere. An applicant would then take that text to an application and submit a proposal to the Commission with the location that the proposal, complying with the text, would be part of the zone change application.

Mr. Stoutenberg reported that the way the farm stands are currently drafted, there is concern that a farm brewery could be called a farm stand. Attorney Branse noted that the regulation calls for farm stand size to be governed by the amount of cultivation. It was agreed that this would be reviewed.

5. APPROVAL OF MINUTES: June 9, 2021.

No business discussed.

6. ZONING ENFORCEMENT OFFICER'S REPORT.

Attorney Branse reported that one of his associates will be filling in for him for the July 14, 2021 regular meeting.

Discussion ensued regarding Dan Raymond's events that he continues to have at his property on Ramstein Road despite there being no permit to do so. It was noted that his application is currently pending for a public hearing scheduled for July 14, 2021 and that he has already had the noted Comedy Night event along with two weddings prior to his gaining approval from this Commission. Additionally, it was reported that there was no Certificate of Occupancy (CO), no approval from the local Fire Marshal, and no approval from the Farmington Valley Health District. Attorney Branse indicated that this is addressed through a *Cease and Desist Order*, which is at the option of the Zoning Enforcement Officer. He noted that the public may be concerned because if this activity is occurring prior to even receiving approvals, then there may be doubt with whether Mr. Raymond will comply with any conditions included as part of an approval. Mr. Lucas reported having had discussions with Mr. Raymond and if this Commission requests a *Cease and Desist Order*, he will issue one.

At the very least, Attorney Branse urged approval be gained from the Fire Marshal, advising that if a loss is suffered as a result of this activity with the Town having knowledge, there is exposure to liability. Emergency lighting and all of the requirements that would be mandatory under the Fire Code should be met, according to Attorney Branse.

Discussion on the CO was discussed. Attorney Branse explained how there might be a CO issued for the home and possibly the barns, as use as a barn but not necessarily for use as public assembly. He strongly urged that confirmation that the CO for the use be determined. It

was noted that whether the structures and their use as public assembly should be determined. Mr. Lucas indicated that he would follow up with Fire Marshal Bob Diorio on the matter.

Mr. Lucas indicated that the perc tests were being done as the septic system was being designed.

Attorney Branse reminded the Commission that the regulation, as drafted and with this property in mind so that Mr. Raymond could accommodate what he wanted to do, does not allow events open to the public. It does not allow magic shows or concerts, according to Attorney Branse. He noted that the regulation is for invitation events only. This would include weddings, corporate picnics, and yoga but not for concerts. Mr. Jerram explained how there may be confusion among the applicant and his team about what constitutes a ticketed event.

Mr. Goodskey inquired whether the Fire Department needed to seek approval from this board for their annual car show on the Hurley property. The consensus of the Commission was that approval had been granted for this annual event on an ongoing basis so long as there were no changes to what has historically been undertaken. Attorney Branse concurred, explaining that when an approval is granted for an annual event, it need not be reissued each consecutive time.

7. CORRESPONDENCE:

None.

MOTION: Mr. Steadman, Mr. Post second, to adjourn at 8:52PM; unanimously approved.

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