

**New Hartford Planning and Zoning Commission
TOWN OF NEW HARTFORD, CONNECTICUT
REGULAR MEETING MINUTES
New Hartford Town Hall – 530 Main Street
Wednesday, July 14, 2021 at 7:00 PM**

PRESENT: Chairman Ted Stoutenberg, Dan LaPlante, Mike Misiorski, Marty Post, and Jim Steadman, Alternates John Burdick and Robert Goodskey;
Zoning Enforcement Officer Mike Lucas, and Attorney Mike Zizka.

ABSENT: Alternate Jack Casey.

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

1. PUBLIC HEARINGS:

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.

The legal ad was read into the record with it having been noted as having run the requisite two times: July 2, 2021 and July 9, 2021. Mr. Lucas noted that all of the materials from the previous application on this site were being incorporated into this application. He confirmed that receipts serving as proof that notices were provided to the abutting properties had been received.

Attorney Robin Pearson of Alter & Pearson, LLC, accompanied by Professional Engineer Matthew Broutin of BL Companies, Architect Doug Bruner, and Matt Eucalito from Garrett Homes, LLC, appeared before the Commission regarding this application. Attorney Pearson reported the application as being a resubmittal with addendums/improvements which had been previously reviewed. She reminded the Commission that this matter had been denied this past May due to the number of parking spaces. Attorney Pearson explained that the proposal included 46 spaces while it needed 48 spaces due to the handicap accessible spaces being counted whereas they should have been excluded. She reminded the Commission that they had preferred to see the roof leaders on the plan.

Attorney Pearson reported revisions having been made after having undergone a comprehensive review from the Town's legal counsel as well as in response to comments received from Planning Department staff. She noted that the plans had been updated with those revisions through July 12, 2021. She further noted that the Inland Wetlands Commission found these revisions to fall within the work included under the permit previously granted by them.

Mr. Broutin reviewed the changes to the site plan, noting the location of the parking spaces and noted the location that is available for the full number of spots should their request for the deferral not be approved. He noted that a single access driveway was included in this most recent update, to be shared with the abutting property to the north. He confirmed that the site's access had already received approval from the State of Connecticut Department of Transportation(DOT). He noted that a comprehensive engineering review had been completed with the previous application. Due to the increase in impervious surface, a comprehensive stormwater management plan had been developed to mitigate peak flows off-site so that no abutting properties or roads were flooded as a result of this site's development. He confirmed that the plans provide 80% TSS (total suspended solids) removal.

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Mr. Broutin noted that utility approvals had been received from the Farmington Valley Health District as well as what is necessary for gas and electric. Full cutoff lighting is part of the planned site lighting, according to Mr. Broutin.

Mr. Broutin reviewed the sediment and erosion control plan that will be utilized during construction to protect the wetlands, the street, and the existing drainage system. The construction entrance, soil stockpile area, silt sacks, and silt fence will be installed by the contractor prior to major earth work, according to Mr. Broutin. He explained that all of these measures would stay in place until site stabilization is achieved such as landscaping, grass growth, and pavement.

Mr. Broutin explained the difference between a deferral and a waiver as the terms relate to parking according to the town's Zoning Regulations.

Mr. Stoutenberg questioned the status of the cistern. Mr. Broutin confirmed that it would be installed at the same time as this development.

Mr. Brunner reviewed the elevation drawings of the proposed building that were approved by the Architecture Review Committee, noting that the rooftop mechanical structures were fully screened from all views on Route 44. He noted that the windows will have frosted glass with decorative shutters along the front of the building. Mr. Brunner indicated that downspouts were included that drain the roof into the drainage system.

Mr. Post questioned whether there was a ramp or a step leading from the building. Mr. Broutin noted that the area was flush but was pitched away from the building.

Mr. Steadman questioned whether the sign had been changed as it had previously been proposed to include yellow. Mr. Brunner confirmed that it had been changed to black channel letters.

Mr. Stoutenberg questioned whether there was an overhang at the door. Mr. Brunner confirmed that there was a covered awning for weather protection and included the same asphalt shingles.

Attorney Pearson noted that a response had been submitted on July 12, 2021, detailing points in which the application meets the requirements of the Zoning Regulations, including compatibility with area uses and the proposed architecture as compatible with the buildings in the area.

The hearing was open to the public. No comments were made.

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

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.

The legal ad was read into the record with it having been noted as having run the requisite two times: July 2, 2021 and July 9, 2021. Mr. Lucas confirmed that receipts serving as proof that notices were provided to the abutting properties had been received.

Steve Lepore appeared before the Commission regarding this application. He reported a new single-family 2848 square foot home was proposed with a 874-square foot basement apartment. He noted the home will have walkout egress.

Mr. Steadman questioned whether the applicant had build all of the other homes on Garrett Ridge Court. Mr. Lepore confirmed.

Mr. Post questioned whether the apartment would be for a relative. Mr. Lepore confirmed.

The hearing was open to the public.

Dan Raymond of 18 Ramstein Road spoke in favor of the proposal, supporting this type of family care.

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

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.

Dan Raymond appeared before the commission regarding this application. He indicated that the site was the location of his home, that he lived at the subject site, and that the property was not an investment property. He noted that there were two buildings on the site and believed the barn dated to the 1800s. Mr. Raymond noted that within the barn is a 4200 square foot residence that he and his family occupy.

Mr. Raymond reported that any activity occurring on his property would only occur while his family is home. He noted that in the future, he intended to invest in handicap bathrooms in the barn. Mr. Raymond emphasized that he would not be holding concerts like those occurring in Morris. Although he did so reluctantly, Mr. Raymond confirmed that he had not included the four annual concert fundraisers that he had originally intended for the center. He noted that event size limits are proposed at 400 individuals. Mr. Raymond noted that the frequency of events to be held during the week were reduced. He noted that another concession made was the end-time for outdoor amplified sound to 9PM and an end-time for indoor amplified sound to 10PM. Mr. Raymond noted that one of the first improvements to be made structurally to the building following an approval would be the conversion from the current farm ramps to handicap accessible ramps.

Addressing concerns he had heard relative to being open to the public, Mr. Raymond confirmed that individuals would not be able to drop in for a hamburger and a beer. He noted that generally, every event would be by invitation only. The word “generally” was used because they anticipate other events which would not be by invitation only, Mr. Raymond explained. For example, he noted that the Ladies Auxiliary would like to hold a craft fair in the fall which would be open to the public. Software was purchased that would allow bingo or a comedy night to issued limited tickets, according to Mr. Raymond.

Mr. Stoutenberg questioned the location for the planned parking and whether it was all planned for the meadow. Mr. Raymond confirmed, explaining that the handicap parking was in the middle. Mr. Stoutenberg doubted the access to parking during the winter months. Mr. Raymond indicated that the area could be cleared once it was frozen. He indicated that events would be canceled if the parking was unsuitable.

Mr. Stoutenberg questioned whether there was only one access to the site. Mr. Raymond indicated that there were three accesses. Mr. Post questioned whether there was already stone there. Mr. Raymond confirmed, noting that there had been more stone added. Mr. Post questioned whether the applicant was amenable to widening the access to twenty-four (24')

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feet. Mr. Raymond confirmed. He noted that traffic is almost always going in the same direction, explaining that events may begin at 4PM and then end at 10PM.

Mr. Misiorski shared his doubts with whether Mr. Raymond occupies the dwelling, noting that he drives by the building and observes no lights on. Mr. Misiorski questioned whether the curtain drains that were added in the area of the pond had ever been reviewed and approved by the Inland Wetlands Commission. Mr. Raymond indicated that the work had not.

Given that the applicant had already held several events at the subject parcel, Mr. Misiorski questioned what assurance the Commission had that the applicant would abide by the terms of a conditioned approval. Mr. Misiorski shared his understanding that Mr. Raymond had been forewarned by the Zoning Enforcement Officer. Mr. Raymond opined that a fundraiser or an open house was not part of that and disagreed that it was a violation of the regulations. He noted that he had four homes and reiterated that when an event is occurring, he would be present. Mr. Raymond detailed the reasons behind why he did not care if his holding fundraisers was perceived by the Commission as wrong. He reported that he had been advised by the Town that he had taken all of the correct actions to submit an application for an approval but to “not go overboard”.

Rebecca Raymond of 18 Ramstein Road questioned whether Mr. Misiorski had stopped by the events. Mr. Misiorski indicated that he had not.

Mr. Stoutenberg cautioned Mr. Raymond that the ramps possibly violate code standards and that he may be liable for any injury sustained there.

Mr. LaPlante shared his frustration with the efforts undertaken by the Commission to modify the regulations to provide a route to permit the proposed activity at the site. He objected to the applicant's response to the unpermitted events that have already occurred. Mr. LaPlante also doubted the owner-occupied status of the property. Mr. Raymond disagreed, noting that he did not consider a fundraiser event or a wedding as a zoning violation.

The hearing was open to the public.

Clare Workman of 22 Ramstein Road explained that she lived across the street and characterized Mr. Raymond as a good neighbor. She explained that she uses her patio quite a bit and while she heard the sounds from the Comedy Night fundraiser, it was over by 10PM.

Polly Pobuda of 22 Church Street explained that she would like to see a facility like this in New Hartford but objected to what she characterized as blatant disrespect for the residents of this town and opined that it is not tolerable.

Donna LaPlante of Stedman Road explained that she had initially thought this proposal as a good use for the buildings but was now unsure as the Zoning Regulation requires the property for this type of use to be owner-occupied. She noted that the other two event centers, Berkshire Hall at Brodie Park and Ski Sundown, do not have that requirement.

Bill Dedominicis of 26 Flanders Crossing spoke in favor of the application, noting the limit of attendees to 400 was a good number.

Alesia Kennerson of 198 Gillette Road suggested guidance could be gained from the State of Connecticut Department of Revenue Services as it relates to examining residency. She noted that only one domicile can be claimed and a number of points can be reviewed to establish that.

Mr. Stoutenberg noted that 269 parking spaces were included on the proposed site plan but explained that only 130 will be sought from this commission.

Mr. Steadman indicated that he had previously been unaware that there had been events held at the subject site already and questioned Attorney Zizka what assurances this Commission has that the applicant would comply with conditions of approval. Attorney Zizka explained that in the event a property owner does not comply with conditions, there are a variety of enforcement techniques that could be used. He noted that formal enforcement includes a Cease and Desist Order, issuance of a citation, or initiation of a lawsuit seeking an injunction against the current violations of the Zoning Regulations. The choice of which of these remedies to use depends on the gravity of the violation, the frequency of the violation, the impact of the violation, and the level of concern among the town with the violation, according to Attorney Zizka. He indicated that whether there are prior zoning violations on a property should not be considered when adopting a decision on a proposal. He also noted that a decision need not be all or nothing but can instead be tailored to begin slow and then allow the applicant to return for more.

MOTION: Mr. Post, Mr. Steadman second, to close the public hearing; 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 – 9100 Square Foot Retail Building/Dollar General; and, 25% Parking Reduction per Section 6.2 E. 5. Temporary Instillation Deferral.

The consensus of the Commission was to refrain from making a decision on this application until the July 28, 2021 regular meeting of the Planning and Zoning Commission. No action was taken.

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.

Mr. Stoutenberg questioned Mr. Lucas whether it appeared that all outstanding items necessary had been met on this application. Mr. Lucas confirmed that they were.

MOTION: Mr. Steadman, Mr. Post second, to approve the Special Exception in the matter of Lepore & Sons LLC/Applicant – Matthew & Elizabeth Larke/Owner – Map 034 – Block 012 – Lot 6-02 – 8 Garrett Ridge Court – Special Exception – Accessory Dwelling Unit; unanimously approved.

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.

After praising the improvements to the location, Mr. Post shared his concerns with the outdoor amplified music. He suggested that amplified music be limited to indoor only. Mr. Misorski agreed. When discussing likely conditions of approval, discussion occurred regarding widening it to 24' and modifications to the ramps to the barn. Mr. Stoutenberg indicated that the Building Official and Fire Marshal should be consulted regarding the ramp access.

Mr. Misorski questioned whether approvals, such as a septic system approval, had been received from Farmington Valley Health District for the bathrooms for the barn. Mr. Lucas reported that only test pits had been dug.

Attorney Zizka advised the Commission should have a written draft of a motion to very clearly articulate those items that will be allowed and those that will not be included. For instance,

Attorney Zizka pointed to the site plan that reflects considerably more parking spaces that are necessary. Additionally, he noted that Mr. Raymond's testimony had included a use that would include renting out the center to an organization that would then invite the public which would really be a public use at that point. Attorney Zizka recommended delaying action for an additional month to sort through these things.

MOTION: Mr. Stoutenberg, Mr. Post second, to table the application in the matter of the Special Exception application at 18 Ramstein Road and to table the Special Exception application for 173A Main Street; unanimously approved.

3. NEW BUSINESS:

Mr. Lucas reported that a public hearing will be held on August 18, 2021 for the Norbrook Farm brewery for Route 202.

4. OTHER BUSINESS TO COME BEFORE THE COMMISSION:

None.

5. APPROVAL OF MINUTES: June 23, 2021.

MOTION: Mr. Post, Mr. Misiorski second, to approve the June 23, 2021 Minutes; unanimously approved.

6. ZONING ENFORCEMENT OFFICER'S REPORT.

No report provided.

7. CORRESPONDENCE:

None.

MOTION: Mr. Post, Mr. Misiorski second, to adjourn at 8:32PM; unanimously approved.

Respectfully submitted,
Pamela A. Colombie
Recording Secretary