

**New Hartford Planning and Zoning Commission
TOWN OF NEW HARTFORD, CONNECTICUT
REGULAR MEETING MINUTES
New Hartford Town Hall – 530 Main Street
Wednesday, July 28, 2021 at 7:00 PM**

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

ABSENT: None.

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

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.

Mr. Stoutenberg recalled a previous comment from Mr. LaPlante about the proposal including too much building for the size of the site. He indicated that he agreed with that analysis and noted that if the building were reduced by 1000 square feet, it would be easier to approve. Reducing the size of the building would allow the wall to be moved back and the driveway to be widened so that truck traffic would not conflict with parking spaces, according to Mr. Stoutenberg. A reduction in building size would also allow the number of spaces to be reduced which would also provide for an area to locate snow during the winter, according to Mr. Stoutenberg. Mr. Post opined that it was late in the process to request a reduction in the size of the building. Regarding the conditions included as part of a draft motion for approval, he objected to a time restriction on deliveries.

Mr. Steadman indicated that he objected to approving the application because the building would be an eyesore and a safety and health hazard. He opined that the proposal would degrade the property values in this town. He further opined that it would lead to a food desert for New Hartford. Additionally, Mr. Steadman cited the criteria for Special Exceptions in the Zoning Regulations as a reason that he objected to it.

Mr. LaPlante indicated that he was opposed to the proposal due to the size of the building for that size lot. He doubted how truckers would be able to obey a restriction on pulling into the site during regular business hours.

Mr. Misiorski indicated that he was in favor of the proposal with the conditions included in the draft motion.

As a straw poll of the commission indicated that Mr. Stoutenberg, Mr. Steadman, and Mr. LaPlante were opposed, Attorney Branse requested that action be delayed on this just long enough for him to prepare an additional draft motion. Following a later recess period, Attorney Branse prepared such a motion.

With regards to the request for a parking deferral, Mr. Stoutenberg objected, recalling an application on Main Street wherein a deferral was granted only to then have the parking fulling installed.

MOTION: Mr. Stoutenberg, Mr. Steadman second, to deny the application of Garrett Homes, LLC for a Special Exception and request for parking reduction in accordance with Section 6.2.E.5. The reason for this denial is because the application is not in conformance with the criteria for our Special Exceptions, including the design guidelines and such other reasons that are indicated in the record. The reduction in parking is not warranted for a retail use at this time; Motion passed with Mr. Stoutenberg, Mr. Steadman, and Mr. LaPlante voting in favor while Mr. Post and Mr. Misiorski were opposed.

B. 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.

Mr. Steadman initially suggested that the applicant should withdraw the application and make modifications to the proposal. Attorney Branse explained that he had extracted from the applicant's Statement of Use points that the Commission should consider. He noted that it was not always consistent. Attorney Branse noted that the Zoning Regulations include a description of each type of event, where it would occur, how often it would occur, and how many there would be. He noted that there were confusing parts including why a caterer's prep kitchen is over 1000 square feet and has a pizza oven.

Attorney Branse noted that prior to the public hearing, there was mention of a tap room but there was nothing included in the application about a tap room. He explained that the Commission could approve the use as proposed and could approve it with modifications and/or conditions.

Attorney Branse identified another inconsistency in which the applicant maintains that there would be no concerts at the site but then included ticketed events where attendees could listen to acoustic guitar or comedy. Attorney Branse explained that those would be considered "concerts", noting that artistic expression cannot be treated differently. Mr. Post questioned whether a band at a wedding is considered a concert. Attorney Branse noted that it wasn't as a wedding is not a ticketed event.

The Commission then reviewed the draft motion for approval with conditions prepared by Attorney Branse.

The location of the events was reviewed with Mr. Post guessing that most events would be held indoor but noted that the outdoor grounds are very beautiful too which may lead to wedding guests wandering about on the patio.

Mr. Lucas suggested a six-month trial period to allow outdoor amplified sound on the patio. Mr. Post suggested that it only be approved for a period of three months and if it works with no problems, the applicant could return to the Commission for a more permanent approval. Mr. Steadman questioned whether this was something that could be done. Attorney Branse indicated that this very concept was currently before the Supreme Court. He noted that the appellate court agreed you could. He cited Spectrum of Connecticut v. Planning and Zoning Commission which involved a trial period for a video parlor which had been granted a special permit for one year which after a year was denied a renewal.

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With regards to the space, Mr. Lucas indicated that there is no tap room. He noted that the bottom space is intended for future meal preparation on-site. Attorney Branse noting that zoning would not be involved with who prepares the food so long as it is not intended for food preparation for a restaurant open to the public.

Attorney Branse queried the commission about whether the lawn area between the barn and Route 202 should be included as part of the area to be used. The consensus of the board was that it was okay.

The commission then reviewed the frequency proposed: three times per week and up to 100 times per year. They also reviewed when the activities would be limited to as put forth by the applicant: most occurring Thursday through Saturday with an occasional Sunday. The time of events was also discussed as the applicant had proposed no earlier than 8AM and no later than 11PM. The applicant's proposal had included amplified sound beginning no earlier than 8AM, and ending by 10PM outdoor and 11PM indoor.

The consensus of the commission was that events should be limited to Thursday through Saturday and one Sunday per month. They also agreed to the hours of 10AM to 10PM with events of less than 100 people being allowed every day. It was agreed that there would be no food trucks but for those in support of an event.

Additionally, the commission agreed that there would be no events open to the general public. They also agreed that retail sales, such as baseball caps or t-shirts, would be allowed only during approved events.

When reviewing the parking, the Commission noted that the current field area is not an all-weather surface. The consensus was that the area should stay grass and be reduced from what is shown on the site plan because there is not a need for as many spaces. Attorney Branse suggested, and the commission agreed, that the applicant should return to a meeting to detail how parking is going to be achieved.

It was also agreed that no more than one type of event shall occur on the property at any given time and no use of the lower level of the barn without further modification of the special exception. Additionally, the Commission is requiring that one or more of the property owners be present on the property during all events and property owners must provide a telephone number of which the owner or owners present at any event may be reached during the event. Another condition agreed to by the commission was that no more than 400 guests will be allowed on the property at one time. They also agreed that all activities will take place in the barn and adjoining patio provided however the Commission may approve specified lawn areas if they are delineated on the revised site plan required by Conditions #1 and #3. Another restriction that was agreed to was that no tents or temporary structures would be permitted.

The consensus of the commission was that amplified sound shall not be allowed on the patio and sound amplified inside for only three months. No event will be allowed to begin before 10AM and must conclude by 10PM was what was agreed to as part of the approval. The approval also included a condition that prohibited outdoor games and outdoor recreational facilities, public or private, other than those for the residents of the property unless and until a modification of this special exception has been approved specifying the location, nature, frequency, and other elements of such use. Additionally, they agreed to a condition that no sale of food or beverage to the general public is allowed.

The commission also made the following finding: that the potentially intensive nature of the event uses, the variety of weather and site conditions that may be anticipated over the course of any years, and the lack of any credible data to predict all of the potential impacts of the events on other properties within the area, particularly residential properties, the commission finds that they must limit the number of events as follows: the commission limits the number of events as indicated above.

They also found that the applicant has already conducted commercial events on the property without the benefit of an approval and this has cause for concern for future compliance for condition of this approval. They included the condition that by acceptance of approval, the applicant agrees that upon notice to the applicant and an opportunity to be heard, the commission may void in whole or in part this special exception approval if the terms and conditions are violated.

It was agreed that the applicant should notify the ZEO the monthly schedule of events. The applicant will be held to reimbursing all legal fees incurred in the review of this application including but not limited to the attendance at the commission hearings and meetings and the drafting of motions. The commission also found that each of the foregoing conditions is deemed to be essential to the issuance of the special exception. In the event that any of the foregoing conditions is found to be invalid or unenforceable by a court of competent jurisdiction, this special exception shall be deemed null and void, according to an additional condition discussed and included as part of their motion detailed below.

Mr. Stoutenberg recalled the applicant mentioning the Ladies Auxiliary was looking to host a craft fair at this center and indicated that this would not be permitted under this approval. Attorney Branse agreed, noting that the approval being considered is for invitation-only events.

The Commission recessed at 8:32PM and reconvened at 8:42PM.

Following the brief recess, the Commission reviewed a draft motion modified by Attorney Branse following the discussion at this meeting. Mr. Lucas questioned the language suggested in Condition #9, related to amplified sound. As drafted, "...this condition is intended to allow the commission and the property owner a reasonable opportunity to evaluate the impact of the amplified sound on the neighborhood during a variety of weather conditions...". Mr. Lucas questioned how an evaluation can be made if the applicant is not allowed to do any outdoor music. The consensus of the commission was that they want to be first sure that sound does not travel from inside the building to the neighborhood.

MOTION: Mr. Post, Mr. Misorski second, to approve the draft motion prepared by Attorney Branse as modified in the matter of 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; unanimously approved.

3. NEW BUSINESS:

A. Norbrook Farm Brewery, LLC/Applicant – Randolph L. & Joan M. Auclair, Trustees/Owner – Map 007 – Block 003 – Lot 20 & 20A – Litchfield Tpke. – Special Exception – Operate a Major Farm Stand.

It was noted that the public hearing was scheduled for August 18, 2021.

4. OTHER BUSINESS TO COME BEFORE THE COMMISSION:

Mr. Lucas reported having recently discussed with Tim Broboske regarding his proposed age-restricted/age-targeted housing project planned for the Main Street site located at the locally

known Caron and Caron property. It was noted that the Zoning Regulations would need to be modified to add an overlay zone. Mr. Lucas indicated the public hearing on those changes would likely be scheduled for early September.

5. APPROVAL OF MINUTES: July 14, 2021.

No action taken.

6. ZONING ENFORCEMENT OFFICER'S REPORT.

No report provided.

7. CORRESPONDENCE:

None.

MOTION: Mr. Post, Mr. Misiorski second, to adjourn at 9:12PM; unanimously approved.

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